

LIFE INSURANCE.

No. 28 of 1945.

An Act relating to Life Insurance and other matters.

[Assented to 16th August, 1945.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Life Insurance Act* 1945. Short title.
2. Except as otherwise provided by this Act, this Act shall commence on a date to be fixed by Proclamation. Commencement.
3. This Act is divided into Parts, as follows :— Parts.
 - Part I.—Preliminary.
 - Part II.—Administration.
 - Part III.—Provisions relating to Companies.
 - Division 1.—Registration.
 - Division 2.—Deposits.
 - Division 3.—Statutory Funds.
 - Division 4.—Accounts, Balance-sheets and Audit.
 - Division 5.—Actuarial Investigations.
 - Division 6.—Documents to be furnished to the Commissioner.
 - Division 7.—Investigations by the Commissioner.
 - Division 8.—Judicial Management and Winding-up.
 - Division 9.—Transfer and Amalgamation.

Part IV.—Provisions relating to Policies.

Division 1.—Issue of Policies.

Division 2.—Assignments and Mortgages of Policies.

Division 3.—Protection of Policies.

Division 4.—Paid up Policies, Surrender Values and Non-forfeiture.

Division 5.—Payment of Policy Moneys.

Division 6.—Payments on death of Children under Ten years of Age.

Division 7.—Children's Advancement Policies.

Division 8.—General.

Part V.—Provisions Relating to Industrial Insurance Business.**Part VI.—Commonwealth Government Insurance Office.****Part VII.—Miscellaneous.****Definitions.****4.—(1.) In this Act, unless the contrary intention appears—**

“actuary” means a Fellow of The Institute of Actuaries incorporated by Royal Charter on the twenty-ninth day of July, One thousand eight hundred and eighty-four, or a Fellow of The Faculty of Actuaries in Scotland, and includes an Associate of either of those bodies who qualified as such before the commencement of this Act and is approved by the Treasurer or the Commissioner, and, when an Institute of Actuaries is established in Australia and has been approved by the Governor-General, includes a Fellow of that Institute;

No. 4, 1932,
s. 3.

“approved securities” means—

- (a) securities of or guaranteed by the government of the Commonwealth or of the United Kingdom or of any other part of the King's dominions;
- (b) municipal securities which have been approved by the Treasurer;
- (c) debentures or stock of any corporation (whether public or private), formed or constituted in Australia, which have been approved by the Treasurer;
- (d) fixed deposits in any bank, carrying on business in Australia, which has been approved by the Treasurer;
- (e) bank guarantees or undertakings which are in the prescribed form and have been approved by the Treasurer;
- (f) unencumbered titles to freehold lands in Australia approved by the Treasurer and first mortgages of freehold lands in Australia approved by the Treasurer where the sum secured does not exceed two-thirds of the improved value of the lands

determined in the prescribed manner or such other proportion (being less than two-thirds) of that value as the Treasurer determines ; and

(g) any other securities approved by the Treasurer ;

“ assignment ”, in relation to a policy, does not include a surrender of the policy to the company liable under the policy ;

“ Australia ” includes any Territory of the Commonwealth to which this Act extends ;

“ chairman of directors ”, in relation to a company, means the person for the time being presiding over the board of directors or other governing body of the company ;

“ collecting book ” includes any book or document in which a collector records payments of premiums ;

“ collector ” includes every person, howsoever remunerated, who, by himself or by any deputy or substitute, makes house to house visits for the purpose of receiving premiums payable on policies, and includes such a deputy or substitute ;

“ company ” means a body corporate which carries on or proposes to carry on life insurance business in Australia, but does not include the Commonwealth Government Insurance Office ;

“ continuous disability insurance business ” means business of or in relation to, the issuing of, or the undertaking of liability under, continuous disability insurance contracts ;

“ continuous disability insurance contract ” means a contract of insurance (which is by its terms to be of more than one year's duration and is incorporated in a life policy) whereby any person is to become entitled to a benefit in the event of the occurrence, within the duration of the contract, of death by accident or by some other cause specified in the contract, or of injury or disability caused by accident or sickness ;

“ financial year ”, in relation to a company, means each period of twelve months at the end of which the balance of the accounts of the company is struck ;

“ foreign company ” means any company which is incorporated outside Australia ;

“ friendly society ” means any society registered under any State Act or law of a Territory providing for the registration of friendly or benefit societies ;

“ industrial insurance business ” means life insurance business, being business of, or in relation to, the issuing of, or the undertaking of liability under, industrial policies ;

“ industrial policy ” means a policy upon which the premiums are, by the terms of the policy, made payable at intervals of less than two months, and are contracted to be received or are usually received, by means of collectors ;

“ life business ” means business of, or in relation to, the issuing of, or the undertaking of liability under, life policies ;

“ life insurance business ” means life business, continuous disability insurance business and sinking fund business, or any of those businesses, but does not include—

(a) business in relation to the benefits provided by a friendly society or trade union for its members or their dependants ;

(b) business in relation to any scheme or arrangement whereby superannuation benefits, pensions or payments to employees or their dependants (and not to any other persons) on retirement, disability or death, are provided by an employer or his employees, or by both, wholly through an organization established by the employer or his employees or by both ; or

(c) in the case of a person who issues policies to his employees, and not to any other persons, in Australia, the business of or in relation to, the issuing of, or the undertaking of liability under, those policies ;

“ life policy ” means a policy insuring payment of money on death (not being death by accident or specified sickness only) or on the happening of any contingency dependent on the termination or continuance of human life (either with or without provision for a benefit under a continuous disability insurance contract), and includes an instrument evidencing a contract which is subject to payment of premiums for a term dependent on the termination or continuance of human life and an instrument securing the grant of an annuity for a term dependent upon human life ;

“ ordinary life insurance business ” means life insurance business being business of, or in relation to, the issuing of, or the undertaking of liability under, ordinary policies ;

“ ordinary policy ” means a policy other than an industrial policy ;

“ owner ”, in relation to a policy, means the person who for the time being has the legal title to the policy ;

“ participating policy ” means a policy by the terms of which the owner of the policy is entitled to a share in surpluses or profits which may be distributed by the company ;

“ personal representative ” means the executor of the will, or administrator of the estate, of a deceased person ;

“ policy ” means a life policy or a sinking fund policy ;

“ premium ” includes an instalment of a premium ;

- “premium receipt book” includes any book or document held by the owner of a policy in which acknowledgments of receipts of premiums payable in respect of the policy are entered ;
- “principal officer”, in relation to any company, means the principal officer of the company, for the time being, in Australia ;
- “Schedule” means Schedule to this Act ;
- “sinking fund business” means business of, or in relation to, the issuing of, or the undertaking of liability under, sinking fund policies ;
- “sinking fund policy” means a policy ensuring payment of a sum, or series of sums, of money on a future date or dates in consideration of one or more premiums but does not include a life policy ;
- “Territory” means Territory of the Commonwealth ;
- “the Commissioner” means the Insurance Commissioner appointed under this Act ;
- “the Court” means the High Court of Australia ;
- “trade union” means any association registered under any State Act or law of a Territory as a trade union ;
- “war service” means service with any Naval, Military or Air Forces of any part of the King’s dominions and includes any engagement in aviation as part of that service.

(2.) In this Act, unless the contrary intention appears, any reference to a form shall be read as a reference to a form in the First Schedule.

(3.) For the purposes of this Act, the following shall be classes of life insurance business :—

- (a) life business under ordinary policies ;
- (b) life business under industrial policies ;
- (c) continuous disability insurance business under ordinary policies ;
- (d) continuous disability insurance business under industrial policies ;
- (e) sinking fund business under ordinary policies ; and
- (f) sinking fund business under industrial policies.

(4.) If a company satisfies the Commissioner that—

- (a) any class of life insurance business carried on by the company ought to be treated as if it were another class of life insurance business ; or
- (b) any other insurance business (not being business of insurance against loss of, or damage to, property) carried on, or to be carried on, by the company ought to be treated as if it were a class of life insurance business,

the Commissioner may direct that it shall be so treated, and thereupon it shall, for the purposes of this Act, be deemed to be that other class of life insurance business, or a class of life insurance business, as the case may be.

(5.) Where a company carries on continuous disability insurance business or sinking fund business, and either of those businesses is, by the instruments constituting the company or by its articles of association or other rules, dissociated from the other life insurance business of the company, the Commissioner may, on the application of the company, direct that, subject to such exceptions as are specified in the direction, the continuous disability insurance business or sinking fund business of the company shall be deemed not to be life insurance business, and thereupon the provisions of this Act shall not apply to that continuous disability insurance business or sinking fund business except to the extent so specified.

(6.) The Commissioner shall not make a direction under the last preceding sub-section unless he is satisfied that reasonable provision has been made by the company for its liability in respect of that continuous disability insurance business or sinking fund business.

Application of
Act.

5.—(1.) Subject to the next succeeding sub-section, this Act shall apply to State insurance extending beyond the limits of the State concerned.

(2.) Where the policies issued by any authority of a State carrying on life insurance business are guaranteed by the State, Division 2 of Part III. of this Act shall not apply to that authority.

(3.) The provisions of this Act shall not apply to—

- (a) any fund which is maintained by a company in respect of any part of its life insurance business, where none of the liabilities arising out of that part of its business relates to any policy registered by the company in Australia ; or
- (b) the part of the life insurance business in respect of which that fund is maintained.

Application
of Act to
Territories.

6. This Act shall extend to any Territory of the Commonwealth (not being part of the Commonwealth) to which the Governor-General by Proclamation declares that this Act shall extend.

Repeal.

7.—(1.) The *Insurance Act* 1932–1937 shall cease to apply in relation to life insurance business as defined in this Act.

(2.) The *Life Assurance Companies Act* 1905 is repealed.

Certain State
Acts to cease
to apply to life
insurance
business.

8.—(1.) The provisions of this Act shall, subject to any exceptions prescribed by or under this Act, apply in relation to life insurance business, including State life insurance extending beyond the limits of the State concerned, to the exclusion of the application of the following State Acts and portions of State Acts and of any State Acts or portions of State Acts amending, adding to, or in substitution for any of those State Acts or portions of State Acts, namely :—

New South Wales—

- Life, Fire, and Marine Insurance Act, 1902 ;
- Life, Fire, and Marine Insurance (Amendment) Act, 1917 ;
- Life, Fire, and Marine Insurance (Amendment) Act, 1938.

Victoria—

Instruments (Insurance Contracts) Act 1936 ;
Companies Act 1938, Part III. ;
Industrial Life Assurance Act 1938 ;
Instruments (Insurance Contracts) Act 1939 ;
Ordinary Life Assurance Act 1940 ;
Industrial Life Assurance Act 1940 ;
Instruments (Insurance Contracts) Act 1943.

Queensland—

The Life Assurance Companies Act of 1901 ;
The Insurance Act of 1916 ;
The Insurance Act of 1923 ;
The Life Assurance Companies Acts Amendment Act of 1933 ;
The Insurance Acts Amendment Act of 1934.

South Australia—

Life Assurance Companies Act, 1936 ;
Life Assurance Companies Amendment Act, 1939 ;
Life Assurance Companies Act Amendment Act, 1941 ;
Life Assurance Companies Act (Partial Suspension) Act, 1943.

Western Australia—

The Life Assurance Companies Act, 1889 ;
Life Assurance Companies Amendment Act, 1905 ;
Life Assurance Companies Act Amendment Act, 1939.

Tasmania—

Life Assurance Companies Act, 1874 ;
Life Assurance Companies Act, 1885 ;
Life Assurance Companies Act, 1906.

(2.) Nothing in this section shall operate prejudicially to affect the rights, powers or privileges under any of those Acts of the owner, or persons entitled to the benefit, of any policy issued prior to the commencement of this Act.

PART II.—ADMINISTRATION.

9.—(1.) There shall be an Insurance Commissioner, who shall be appointed by the Governor-General.

Insurance
Commissioner.

(2.) The Commissioner shall, subject to any directions of the Treasurer, be charged with the general administration of this Act.

10. If the Commissioner is not an actuary, the Treasurer shall cause arrangements to be made for the services of an actuary to be available at all times for the purpose of advising the Commissioner in relation to matters arising under this Act.

Actuarial
advice.

11.—(1.) The Commissioner shall, within three months after the thirty-first day of December in each year, furnish to the Treasurer, for presentation to the Parliament—

Annual report
and returns

- (a) a report on the working of this Act during that year ; and
- (b) printed copies or summaries of the documents lodged with him under Division 6 of Part III. of this Act during that year.

(2.) The Commissioner may attach to any such copy or summary any note which he thinks proper to make with reference to the document, together with a copy of any correspondence relating to the document.

(3.) The Treasurer shall cause a copy of the report of the Commissioner under this section, together with the printed copies or summaries referred to in paragraph (b) of sub-section (1.) of this section, to be laid before each House of the Parliament within fifteen sitting days of that House after the receipt of the report and copies or summaries by the Treasurer.

Delegation by
Commissioner.

12.—(1.) The Commissioner may, in relation to any particular matter or class of matters, or to any particular State or Territory, by writing under his hand, delegate all or any of his powers and functions under this Act (except this power of delegation), so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters, or the State or Territory, specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Commissioner.

Power of
Commissioner
to arbitrate.

13.—(1.) Where, in relation to a policy, any dispute or difference arises between the company and the policy owner, if the parties have agreed, whether by the terms of the policy or otherwise, to submit the dispute or difference to arbitration by the Commissioner, the Commissioner may act as arbitrator of the dispute or difference and his award shall be binding on both parties.

(2.) An arbitration under this section shall, unless the parties otherwise agree, be conducted in accordance with the provisions of the law relating to arbitration of the State or Territory in which the policy is registered by the company.

PART III.—PROVISIONS RELATING TO COMPANIES.

Division 1.—Registration.

Persons other
than companies
not to carry on
business.

14. A person, other than a company, shall not, after the expiration of six months from the commencement of this Act, carry on any class of life insurance business in Australia except on behalf of a company registered under this Act.

Companies
not to carry on
business unless
registered.

15.—(1.) A company, other than a company carrying on life insurance business in Australia immediately prior to the commencement of this Act, shall not carry on any class of life insurance business in Australia unless it has been registered by the Commissioner.

(2.) A company carrying on life insurance business in Australia immediately prior to the commencement of this Act shall not, at any time after the expiration of six months from the commencement of this Act, carry on any class of life insurance business in Australia unless it has been registered by the Commissioner.

Penalty: Two thousand pounds and, in addition, Five hundred pounds for each day on which business is carried on in contravention of this section.

16.—(1.) A person or company shall not be deemed to carry on any class of life insurance business by reason only—

Certain transactions not to be deemed carrying on business.

(a) of collecting renewal premiums under a policy in respect of that class of business issued outside Australia to a person resident outside Australia at the date of issue of the policy ;
or

(b) of making payments due under any such policy.

(2.) Subject to the last preceding sub-section, a person or company receiving premiums or proposals in respect of life insurance business shall be deemed to be carrying on the class of life insurance business to which the premiums or proposals relate.

(3.) When a company has ceased to issue policies in respect of any class of life insurance business in Australia, it shall, unless the Commissioner is satisfied that reasonable provision has been made for its liability in respect of policies of that class previously effected, be deemed to carry on that class of business.

17.—(1.) Any company may make application to the Commissioner for registration under this Act.

Application for registration.

(2.) The application shall be in writing, shall be signed by a director and by the principal officer of the company, and shall specify—

- (a) the situation of the head office of the company ;
- (b) the names of the directors and of the auditors, and the name and address of the principal officer, of the company ;
- (c) the name of the actuary (if any) of the company ;
- (d) in the case of a company carrying on life insurance business in Australia immediately prior to the commencement of this Act, the States and Territories of the Commonwealth and the countries outside Australia in which it carries on that business ;
- (e) in the case of a foreign company, the countries outside Australia in which the company carries on life insurance business ; and
- (f) the classes of life insurance business undertaken or to be undertaken by the company.

(3.) The application shall be accompanied by—

- (a) a copy of the instruments constituting the company ;
- (b) a copy of the articles of association or other rules of the company ;
- (c) a copy of the latest revenue account and balance-sheet of the company and a copy of the latest valuation report upon the financial position of the company ; and

- (d) in the case of a company having shareholders, a statement showing the nominal, subscribed and paid-up capital of the company and the amount of capital which has been paid in cash,

certified by the principal officer of the company to be true and correct.

Registration
of companies
carrying on
business
prior to
commencement
of Act.

18. Every company carrying on life insurance business in Australia immediately prior to the commencement of this Act shall, within three months after the commencement of this Act, make application in accordance with the last preceding section to the Commissioner for registration and, subject to this Act, the Commissioner shall, within three months after the receipt of the application, if satisfied that the application is in accordance with the provisions of this Act, register the company.

Registration
of other
companies.

19. The Commissioner may, on receipt of an application for registration from a company (not being a company carrying on life insurance business in Australia immediately prior to the commencement of this Act)—

- (a) subject to this Act, register the company ; or
(b) with the approval of the Treasurer, refuse to register the company.

Compliance
with provisions
as to deposits.

20. A company shall not be registered unless the Commissioner is satisfied that the company has complied with such of the provisions of Division 2 of this Part as are applicable to it.

Foreign
company to
appoint
principal
officer.

21. A foreign company shall not be registered unless it has appointed some person resident in Australia to be its principal officer and has informed the Commissioner in writing of the name and address of that person.

Certificate of
registration.

22. The Commissioner shall furnish to every company registered under this Act a certificate that the company has been so registered, and the certificate shall in all courts be *prima facie* evidence that the company specified in the certificate has been so registered.

Notification
of change in
particulars, &c.

23. If, subsequent to the registration of any company under this Act, any change takes place in the particulars specified in the application of the company for registration or in the particulars of the information or documents required to accompany the application, the company shall, within such time as is prescribed, notify the Commissioner in writing of the change.

Division 2.—Deposits.

Prior deposits
under State
Acts.
No. 4, 1932,
s. 7.

24.—(1.) Where, at the commencement of this Act, any amount or security is, in pursuance of any State Act specified in section eight of this Act, held by a State or by an authority of a State by way of

deposit on account of a company carrying on life insurance business, the State or authority shall forthwith pay the amount, or transfer the security, to the Treasurer.

(2.) Any amount or security on account of a company which is paid or transferred to the Treasurer in compliance with the last preceding sub-section shall, to the extent of the deposit required to be lodged by that company under this Act, be held by the Treasurer as, or as part of, the deposit so required.

25. Any deposit lodged with the Treasurer in pursuance of the *Insurance Act 1932-1937* by a company in respect of life insurance business and held by the Treasurer immediately prior to the commencement of this Act shall thereafter continue to be held by the Treasurer as, or as part of, the deposit required to be lodged by that company under this Act.

Deposit under
Insurance Act
1932-1937.

26.—(1.) Subject to this Act, a company carrying on life insurance business in Australia immediately prior to the commencement of this Act shall deposit with the Treasurer money or approved securities or both to the value of Fifty thousand pounds.

Deposits by
existing
companies.
No. 4, 1932,
s. 12.

(2.) Where a company carrying on life insurance business in Australia immediately prior to the commencement of this Act satisfies the Commissioner that its net liability, as ascertained at the latest actuarial valuation, in respect of that business is less than Two hundred and fifty thousand pounds, the company shall deposit with the Treasurer money or approved securities or both to the value of One thousand pounds for every Five thousand pounds of the amount which, in the opinion of the Commissioner, is the net liability of the company.

(3.) Where a deposit lodged under the last preceding sub-section is less than Fifty thousand pounds, the amount deposited shall be increased, within nine months after the date as at which each and every subsequent actuarial valuation is made, by One thousand pounds in respect of every Five thousand pounds by which the net liability of the company disclosed at that valuation exceeds the amount of the net liability taken into account in fixing the amount of its aggregate deposits previously lodged under this Act, until the amount deposited reaches Fifty thousand pounds.

27. A foreign company not carrying on life insurance business in Australia immediately prior to the commencement of this Act shall, before carrying on that business in Australia, deposit with the Treasurer, money or approved securities or both to the value of Fifty thousand pounds.

Deposit in case
of foreign
company.
Ibid. s. 12.

28.—(1.) A company incorporated in Australia (whether before or after the commencement of this Act) not carrying on life insurance business in Australia immediately prior to the commencement of this Act shall, before carrying on life insurance business in Australia, deposit with the Treasurer money or approved securities or both to the value of Five thousand pounds.

Deposits in case
of new life
insurance
companies.
Ibid. s. 13

(2.) The company shall thereafter deposit annually with the Treasurer money or approved securities or both to the value of Five thousand pounds, until the deposit reaches the value of Fifty thousand pounds :

Provided that in the case of a company having no shareholders the annual deposit under this sub-section shall be One thousand pounds until the deposit reaches the value of Fifty thousand pounds :

Provided further that the aggregate amount deposited shall not at any time be less than the aggregate amount which would be required by this Act to be deposited if the company had been carrying on life insurance business in Australia immediately prior to the commencement of this Act.

Investment of
sums deposited.
No. 4, 1932,
s. 18.

29. Every sum of money deposited by a company in pursuance of this Act shall be invested by the Treasurer in such approved securities as the company selects or, in default of selection within fourteen days after the deposit has been made, in such approved securities as the Treasurer determines.

Deposits part
of assets of
company.

30. All deposits by a company in pursuance of this Act shall be deemed to form part of the assets of the company, and all interest accruing due on the deposits or the securities in which they are for the time being invested shall be paid to the company.

Certificate as
to nature and
extent of
deposit.
Ibid. s. 19.

31. The Secretary to the Department of the Treasury, shall, on demand by a company, furnish to the company a certificate in writing, setting out the nature and extent of any deposit held by the Treasurer under this Act in respect of the company together with particulars of the securities (if any) forming the whole or part of the deposit.

Deposits by
companies
acquiring
business of
other
companies.
Ibid. s. 14.

32. If the Commissioner is satisfied that any company has acquired the life insurance business of any other company, a deposit by the acquiring company to the extent which would be required of that company by this Act if it carried on the business of that other company in addition to its own business shall, if the Commissioner so certifies, be a sufficient compliance with the requirements of this Division.

Increase of
deposit where
securities have
depreciated.
Ibid. s. 20.

33.—(1.) If the Treasurer is satisfied that by reason of depreciation in the value of securities or other cause the value of money and approved securities deposited by a company with him falls short of the value required by this Act, he may, by notice in writing, require the company to deposit with him money or approved securities or both to a value deemed by him to be sufficient to bring the amount of the deposit to the value required by this Act.

(2.) A notice under this section shall not be issued until after the Treasurer has given an opportunity to the company to be heard in connexion with the matter.

(3.) Any company which fails to deposit with the Treasurer money or approved securities or both as required by him under this section shall be guilty of an offence.

34.—(1.) Where in pursuance of Division 3 of this Part a company establishes and maintains one statutory fund only, the amount of the deposit lodged by the company under this Act shall, subject to this Act, be and remain as a security for the discharge of the liabilities of that statutory fund in respect of policies.

Deposits to be
security to
policy owners.
No. 4, 1932.
s. 21.

(2.) Where in pursuance of Division 3 of this Part a company establishes and maintains more than one statutory fund, then in respect of every such statutory fund such portion of the amount of that deposit as the company with the approval of the Commissioner determines shall, subject to this Act, be and remain as a security for the discharge of the liabilities of that statutory fund in respect of policies.

(3.) The amount or the portion of the amount of any such deposit which is a security for the payment of liabilities of a statutory fund in respect of policies shall not be applicable in the discharge of any other liabilities of the company until the first-mentioned liabilities have been discharged or otherwise provided for to the satisfaction of the Commissioner.

35. If any money or securities held by the Treasurer as, or as part of, the deposit required to be lodged by a company under this Act are, while so deposited, lost, stolen, destroyed or damaged, the injury occasioned to all persons interested in the moneys or securities shall be made good out of moneys to be appropriated by the Parliament for the purpose.

Responsibility
for lost
securities.
Ibid. s. 23

36.—(1.) A company may at any time substitute for any security held by the Treasurer as, or as part of, the deposit required to be lodged by the company under this Act any other approved security, but so that the total amount then deposited is not less than the amount required by this Act and any security so substituted shall be subject to the same charge or liability as the security withdrawn.

Substitution of
deposits.
Ibid. s. 26

(2.) Any company which makes any such substitution shall be entitled to obtain from the Secretary to the Department of the Treasury, and the Secretary shall issue to the company, a certificate in writing of the substitution so made and a receipt for the substituted security, and the company shall lodge the certificate with the Commissioner.

(3.) Where a company ceases to carry on life insurance business in Australia, the Treasurer may permit the withdrawal of the whole of the money or securities held by him as the deposit required to be lodged by the company under this Act or such portion of the money or securities as he considers reasonable having regard to the liabilities of the company under policies registered by the company in Australia.

Division 3.—Statutory Funds.

Establishment
of statutory
funds.

Eng. Bill 1927,
Cl. 3.

37.—(1.) Every company shall, subject to this section, establish, as at the date of the commencement of its financial year next after the commencement of this Act or as at the date on which it commences to carry on life insurance business in Australia, whichever is the later, and shall maintain, a statutory fund, under an appropriate name, in respect of the life insurance business carried on by it.

(2.) A company may establish and maintain a separate statutory fund, under an appropriate name, in respect of any class or classes of its life insurance business (or, with the consent of the Commissioner, in respect of a part of any class or classes of its life insurance business) and references in this Act to statutory funds shall include references to separate statutory funds so established.

(3.) The consent of the Commissioner under the last preceding sub-section to the establishment and maintenance of a separate statutory fund in respect of a part of any class or classes of the life insurance business of a company shall not be withheld in any case where he is satisfied that the company, as at the first day of January, One thousand nine hundred and forty-five, maintained the assets of that part separate from all other assets of the company.

(4.) Where the Commissioner has consented to the establishment of a separate statutory fund in respect of any part of a class or classes of life insurance business, that part shall, for the purposes of this Act, be deemed to be a class of life insurance business.

Formation and
application of
statutory
funds.

Ibid. Cl. 4.

38.—(1.) All amounts received by a company in respect of any class of life insurance business, after the establishment by the company of a statutory fund in respect of that class of life insurance business, shall be carried to, and become assets of, that fund.

(2.) Subject to the payment and application of such sums as may be allocated as surplus in pursuance of section fifty of this Act, the assets of a statutory fund shall not, so long as the company carries on the class or classes of life insurance business in respect of which the fund was established, be available to meet any liabilities or expenses of the company other than—

(a) liabilities or expenses referable to that class or those classes of life insurance business; and

(b) liabilities charged on those assets or any of them immediately prior to the commencement of this Act,

and shall not otherwise be directly or indirectly applied for any purpose other than the purposes of that class or those classes of life insurance business.

Ibid. Cl. 4.
Imp. Act 1923,
s. 18.

(3.) A company shall not mortgage or charge any of the assets of any statutory fund otherwise than to secure a temporary bank overdraft.

(4.) Subject to the next succeeding sub-section, a transaction shall not be invalidated by reason only that it has been entered into in contravention of the last preceding sub-section, but nothing in this sub-section shall affect the liability of any person to a penalty in respect of any such contravention.

(5.) The Court may, on the application of the Commissioner, make an order that a transaction entered into in contravention of sub-section (3.) of this section shall be invalidated, but the Court shall not make any such order if the Court is satisfied that the effect of the order (if made) would be to prejudice the rights of any person in respect of, or arising out of, the transaction which have been acquired in good faith and without knowledge of the contravention.

(6.) The assets of each statutory fund shall be kept distinct and separate from all other assets of the company.

(7.) The income arising from the investment of the assets of any statutory fund shall be carried to that fund.

(8.) Every director of a company shall be under the same liability, in the event of a contravention of the provisions of this section in respect of any statutory fund, as if he had been a trustee under a trust for the execution of those provisions in respect of that fund, and as if the appropriate policy owners had been beneficiaries of such a trust, unless the director proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the contravention.

39.—(1.) Subject to this Act, the assets of every statutory fund maintained by a company may be invested (subject to any provisions in the instruments constituting the company or in the articles of association or other rules of the company which impose restrictions upon the manner in which the assets of the company may be invested) in such manner as the company thinks fit.

Investment
of statutory
funds.
Eng. Bill 1927;
Cl. 4.

(2.) The assets of a statutory fund shall not, without the sanction of the Court, be invested directly or indirectly in any share or interest in any company or undertaking carrying on life insurance business whether in Australia or elsewhere, but nothing in this sub-section shall prevent the allocation, under the next succeeding section, to a statutory fund of any such share or interest held at the commencement of this Act or require the re-investment of any such share or interest.

40.—(1.) Every company which, at the date of the commencement of this Act, is carrying on life insurance business in Australia shall, as at the date of the commencement of its financial year next after the commencement of this Act, allocate to every statutory fund established by the company assets at least equivalent to the aggregate amount of the sums which immediately before the date of the

Transitory
provisions
with respect
to statutory
funds.
Ibid. Cl. 5.

commencement of that financial year were standing to the credit of any fund or account maintained by the company as representing a liability of the company in respect of the class or classes of life insurance business in respect of which the statutory fund is established.

(2.) Every company to which the last preceding sub-section applies shall, within six months after the date of the commencement of that financial year, lodge with the Commissioner a statement showing that the provisions of that sub-section have been complied with and specifying the assets allocated to each statutory fund established by the company and all other assets of the company, and shall, if directed by the Commissioner so to do, supply to the Commissioner such information as he requires for the purpose of exercising his powers under this section.

(3.) If it appears to the Commissioner that any statement lodged with him under the last preceding sub-section is in any particular unsatisfactory, incomplete, inaccurate or misleading, or that insufficient assets are by the statement shown as having been allocated to any statutory fund, the Commissioner may, after considering any explanation made by or on behalf of the company, give to the company such directions in writing as he thinks necessary for the variation of the statement and for the allocation to the statutory fund of further assets and, subject to this section, the company shall forthwith comply with any directions so given.

(4.) An appeal shall lie to the Court against any direction given under the last preceding sub-section.

(5.) On any such appeal, the Court may confirm, disallow or vary the direction.

(6.) The assets shown—

- (a) by any statement lodged with the Commissioner by a company under this section; or
- (b) where directions are given by the Commissioner or, on appeal, by the Court, for the variation of the statement—by any such statement as so varied,

as being allocated to any statutory fund, shall form part of the assets of that statutory fund, and shall be deemed to have formed part of those assets as from the date of the commencement of the financial year of the company next after the commencement of this Act.

Division 4.—Accounts, Balance-sheets and Audit.

Separation of
accounts.
V. 4773, s. 12.
Imp. Act 1923,
s. 12.

41. Where a company establishes and maintains a statutory fund in respect of both ordinary life insurance business and industrial insurance business, it shall keep separate accounts of its receipts and payments (including sums ascertained by apportionment under the next succeeding section) in respect of the ordinary life insurance

business and in respect of the industrial insurance business and shall also keep separate accounts of the amounts of that statutory fund which are derived from the ordinary life insurance business and from the industrial insurance business, respectively.

42. Where a company establishes and maintains a statutory fund in respect of both ordinary life insurance business and industrial insurance business, and any amount received or paid by the company is in respect of the life insurance business in respect of which that statutory fund is maintained but is not received or paid wholly in respect of the ordinary life insurance business or wholly in respect of the industrial insurance business, the company shall, for the purposes of this Division, apportion the amount in an equitable manner between the ordinary life insurance business and the industrial insurance business.

Apportionment
of receipts
and payments.
Imp. Act 1928,
s. 12.

43. Where a company treats any asset as having appreciated or depreciated in value, the company shall, for the purposes of this Division, regard the amount of the appreciation or depreciation as a receipt or payment, as the case may be.

Appreciation
and
depreciation
of assets.

44.—(1.) Subject to this section, every company shall, at the expiration of each financial year of the company, prepare—

Accounts
and balance-
sheet.
Imp. Act 1909,
ss. 4-5.
V. 4602, ss. 529-
530.
Q., ss. 9-10.
S.A., ss. 45-46.
W.A., ss. 16-17
T., ss. 14-15.

- (a) a revenue account for the year in accordance with Form A in respect of each statutory fund ;
- (b) a revenue account for the year in accordance with Form B in respect of any insurance business, other than life insurance business, carried on by the company ;
- (c) except where the company does not carry on any business other than life insurance business, a profit and loss account for the year in accordance with Form C ; and
- (d) a balance-sheet in accordance with Form D.

(2.) Where a statutory fund is maintained in respect of both ordinary life insurance business and industrial insurance business, separate revenue accounts in accordance with Form A shall be prepared for the ordinary life insurance business and for the industrial insurance business in respect of which that statutory fund is maintained.

45. The accounts of every company shall be audited annually by its auditors, and every account and balance-sheet prepared by the company under this Division shall bear a certificate by the auditors as to whether, in their opinion—

Aud
itors
S. v.
Eng.
Cl. 7.

- (a) the accounts and balance-sheet are in accordance with the provisions of this Act ;
- (b) the balance-sheet truly represents the financial position of the company ; and

(c) the books of the company have been properly kept and record correctly the affairs and transactions of the company.

Certificate
as to
apportionment.
Imp. Act 1923,
s. 12 (3) (b).

46. If an apportionment has been made under section forty-two of this Act, the certificate of the auditors under the last preceding section shall state whether they are satisfied that the apportionment has been made in an equitable manner.

Auditors.

47.—(1.) A person appointed as an auditor of a company shall not be capable of performing the functions of an auditor under this Division unless the Commissioner has approved of his performing those functions.

(2.) The Commissioner may at any time revoke any approval given in respect of any person under this section, and thereupon that person shall not be capable of performing the functions of an auditor under this Division.

(3.) In the event of any approval under this Division being revoked in the case of a person who holds an appointment as an auditor of a company, the directors of the company may, subject to this section, appoint some other person to perform in respect of the company the functions of an auditor under this Division until such time as an auditor is appointed in accordance with the articles of association or other rules of the company.

(4.) An appeal shall lie to the Court or the Supreme Court of a State or Territory against any refusal of the Commissioner to approve of any person performing the functions of an auditor under this Division, or against any revocation of an approval given in respect of any person under this section.

(5.) On any such appeal, the Court may confirm or disallow the refusal or revocation.

Division 5.—Actuarial Investigations.

Actuarial
reports and
abstracts and
statements of
life insurance
business.

Imp. Act 1909,
ss. 5-6.
Eng. Bill 1927,
Cl. 8.
V. 4602,
ss. 532-533.
Q. ss. 12-13.
S.A., ss. 48-49.
W.A., ss. 19-20.
T., ss. 17-18.

48.—(1.) Every company shall, as at the date of the expiration of the financial year expiring next after the date of commencement of this Act or as at such later date as the Commissioner approves, and thereafter at intervals of five years, or at such shorter intervals as it notifies to the Commissioner to be the intervals adopted by it for the purposes of this Division—

- (a) cause an actuary to make an investigation into its financial condition, including a valuation of its liabilities in respect of its life insurance business and to furnish it with a report of the results of the investigation ;
- (b) cause an abstract of the report of the actuary to be prepared in accordance with the provisions set forth in the Second Schedule or in accordance with those provisions as amended by the regulations ; and
- (c) cause a statement of its life insurance business to be prepared in accordance with the provisions set forth in the Third Schedule or in accordance with those provisions as amended by the regulations.

(2.) Where a company causes such an investigation to be made at any other time, and the results of the investigation are made public, the company shall cause an abstract of the report of the actuary to be prepared in accordance with the provisions set forth in the Second Schedule or in accordance with those provisions as amended by the regulations, but subject to such modifications (if any) as the Commissioner approves.

(3.) The company shall cause a separate abstract and a separate statement to be prepared for each statutory fund maintained by the company and, where a statutory fund is maintained in respect of both ordinary insurance business and industrial insurance business, the company shall cause separate abstracts and statements to be prepared in respect of the ordinary life insurance business and in respect of the industrial insurance business.

(4.) The valuation balance-sheet annexed to any abstract shall, in accordance with a method approved by the Commissioner, show the net liabilities in respect of policies on registers in Australia separately from the net liabilities in respect of other policies.

49. The following provisions shall apply in regard to valuations made, in respect of any company, in pursuance of this Division :—

Provisions as
to valuations.
Imp. Act 1923,
s. 18.

- (a) The basis of valuation adopted shall be such as to place a proper value upon the liabilities, regard being had to the mortality experience among the persons whose lives have been insured by the company, to the average rate of interest from investments and to the expenses of management (including commission), and shall be such as to secure that no policy shall be treated as an asset :

Provided that the value placed upon the aggregate liabilities of any statutory fund by reason of the adoption of any basis of valuation shall not be less than it would have been if it had been calculated on the Minimum Basis in accordance with the rules set forth in the Fourth Schedule ;

- (b) The actuary who makes the valuation shall certify that, in his opinion, the value placed upon the aggregate liabilities of any statutory fund by the valuation is not less than the value which would have been placed upon those aggregate liabilities if it had been calculated on the Minimum Basis in accordance with the rules set forth in the Fourth Schedule ;
- (c) Where the balance-sheet of the company includes amongst the assets of a statutory fund any sums representing expenses of organization or extension, or the purchase of business or goodwill or any other intangible assets, and the amount of the other assets of the statutory fund (after

deducting debts due by the company in respect of that statutory fund) is less than the amount of the statutory fund as shown in the balance-sheet, the amount of the statutory fund shown in the appropriate valuation balance-sheet shall be reduced by the amount of the deficiency :

Provided that, for a period of seven years after the commencement of this Act, this paragraph shall apply with such modifications of its provisions as the Commissioner thinks just, if in the balance-sheet of the company which was last issued before the commencement of this Act any such sums were included :

Provided further that in no case shall any modification of the provisions of this paragraph be allowed by the Commissioner if the amount of the statutory fund as shown in the appropriate valuation balance-sheet would by reason of the modification exceed in amount the liabilities of the company in respect of the fund ; and

- (d) Where, prior to the commencement of this Act, debentures have been issued or loans raised which are charged on any of the assets of any statutory fund of the company, there shall be inserted in the valuation balance-sheet relating to that statutory fund a note giving the particulars of the charge and stating that the result shown by the valuation is subject to the liability arising from the charge.

Payment of
dividends and
bonuses from
statutory fund.

50.—(1.) A company shall not pay or apply any part of a statutory fund—

- (a) as dividends or otherwise as profits to shareholders ; or
(b) as bonuses to policy owners,

except in accordance with this section.

(2.) If, as a result of the latest valuation made in respect of a company in pursuance of this Division, the valuation balance-sheet of any statutory fund of the company discloses that the amount of the statutory fund is not greater than the amount of the liabilities of the company in respect of that fund, the company may pay or apply part of the fund as bonuses to policy owners in respect of bonuses which were included as a liability of the company in that valuation and which were attached to policies at the date of the commencement of this Act or which became attached to policies as a result of an allocation of surplus made in pursuance of the next succeeding subsection.

(3.) If, as a result of the latest valuation made in respect of a company in pursuance of this Division, the valuation balance-sheet of any statutory fund of the company discloses that the amount of the statutory fund is greater than the amount of the liabilities of the

company in respect of that fund, the company may allocate the surplus or any part of it, in any manner consistent with the provisions of the instruments constituting the company and the articles of association or other rules of the company :

Provided that—

- (a) the company shall not allocate any surplus unless the allocation has been approved by an actuary ; and
- (b) in respect of that part of the surplus which is derived from participating policies registered by the company in Australia, the amount allocated to or for the benefit of the shareholders of the company shall not exceed twenty-five per centum of the amount allocated to or for the benefit of the owners of those policies.

Division 6.—Documents to be furnished to the Commissioner.

51. Every company shall, at the expiration of each financial year, prepare, separately, returns in accordance with Forms E, F and G in respect of its ordinary life insurance business and in respect of its industrial insurance business, including in the returns the appropriate portions of any sinking fund business and continuous disability insurance business irrespective of whether separate statutory funds have been set up for those businesses.

Returns of
policies.
V. 4602, s. 531.
Q., s. 11.
S.A., s. 47.
W.A., s. 18.
T., s. 16.

52.—(1.) Every account, balance-sheet, abstract, statement and return which a company is required by sections forty-four, forty-eight and fifty-one of this Act to prepare shall be printed and shall be signed by the chairman of directors and two other directors of the company and by the principal officer.

Accounts,
balance-sheets,
&c., to be
signed and
deposited.
Imp. Act 1909,
s. 7.
Eng. Bill 1927,
Cl. 8-9.
V. 4602, s. 535.
Q., s. 15.
S.A., s. 52.
W.A., s. 23.
T., s. 21.

(2.) Each account, balance-sheet, abstract, statement or return, signed as required by this section, and at least ten printed copies of each of those documents, shall be lodged with the Commissioner—

- (a) in the case of accounts, balance-sheets or returns required to be prepared under section forty-four or section fifty-one of this Act—within six months after the expiration of the financial year in respect of which they are prepared ; and
- (b) in the case of the abstract and statement required to be prepared under section forty-eight of this Act—within nine months after the date as at which the investigation was made,

or within such extended period, not exceeding three months, as the Commissioner allows.

(3.) If it appears to the Commissioner that any account, balance-sheet, abstract, statement or return lodged with him by a company in accordance with the provisions of this section is, in any particular, unsatisfactory, incomplete, incorrect or misleading, or that it does not comply with the requirements of this Act, the Commissioner may, by notice in writing served upon the company, require such explanations as he considers necessary to be made by or on behalf of the company within such time (not less than fourteen days) as is specified in the notice, and may, after considering any such explanations or if

Eng. Bill 1927,
Cl. 9.

the explanations required have not been given by the company within the time so specified, reject the account, balance-sheet, abstract, statement or return and give such directions as he thinks necessary for the variation of any of them within such time (not less than one month) as he specifies, and of any other account, balance-sheet, abstract, statement or return affected by the variation, and the company shall comply with any directions so given.

(4.) An appeal shall lie to the Court against any rejection of an account, balance-sheet, abstract, statement or return, or against any direction given by the Commissioner, under the last preceding sub-section.

(5.) On any such appeal the Court may—

- (a) confirm or disallow the rejection or direction ; or
- (b) vary the direction.

(6.) Every account and balance-sheet lodged with the Commissioner by a company in accordance with the requirements of this Division shall be accompanied by a copy of any report on the business of the company submitted to the shareholders or policy owners of the company in respect of the financial year to which the account or balance-sheet relates.

Copies to be
furnished.
Imp. Act 1909,
s. 8.
Eng. Bill 1927,
Cl. 9(b).
V. 4602, s. 535.
Q., s. 16.
S.A., s. 68.
W.A., s. 24.
T., s. 22.

53. A printed copy of the latest account, balance-sheet, abstract, statement or return lodged with the Commissioner by a company in accordance with the requirements of this Division shall, on the application of any shareholder or policy owner of the company, be forwarded to him by the company.

Division 7.—Investigations by Commissioner.

Commissioner
may demand
information.
S. Africa, s. 28.
Power to
make
investigation.
Imp. Act 1923,
s. 17.
S. Africa, s. 29.

54. The Commissioner may demand in writing from any company information relating to any matter in connexion with its business.

55.—(1.) If it appears to the Commissioner that—

- (a) a company is, or is likely to become, unable to meet its obligations ;
- (b) a valuation made in pursuance of Division 5 of this Part discloses that the amount of a statutory fund of a company is less than the amount of the liabilities of the company in respect of that statutory fund ;
- (c) a company has failed to comply with any provisions of this Act ;
- (d) a company has not, within a period of one month as from a date upon which the Commissioner demanded from it in writing any information which the Commissioner was entitled under this Act to demand from it, furnished that information fully and satisfactorily ;
- (e) the rate of expense of procuring, maintaining and administering any life insurance business of a company in relation to the income derived from premiums is unduly high ;

V. 4772, s. 13.

- (f) the method of apportionment of income or expenditure of a company among any classes of life insurance business or between life insurance business and any other business is inequitable ; or
- (g) any information in the possession of the Commissioner calls for an investigation into the whole or any part of the life insurance business of the company,

the Commissioner may serve on the company a notice in writing calling upon it to show cause, within such period, not less than fourteen days from the date of the notice, as is specified in the notice, why he should not, on the grounds so specified, investigate the whole or any part of the business of the company or appoint a person (in this Division referred to as "the Inspector") to make such an investigation and report to the Commissioner the results of his investigation.

(2.) If the company fails, within the period specified in the notice, to show cause to the satisfaction of the Commissioner, the Commissioner may make the investigation or may cause it to be made by the Inspector.

56.—(1.) In making an investigation under this Division, the Commissioner or the Inspector—

Power to
obtain
information.
S. Africa, s. 22.

- (a) may require the company to produce any securities, books, accounts, documents or statistics of the company for his inspection and to allow him to make such extracts from them as he deems fit ;
- (b) may examine on oath or affirmation, in relation to the company's business, any person who is, or has at any time been, a director, auditor, officer, agent, servant or shareholder of the company or the owner of a policy issued by the company or the personal representative of the owner ; and
- (c) for the purpose of the last preceding paragraph, may administer oaths or take affirmations.

(2.) A person specified in paragraph (b) of the last preceding sub-section shall produce to the Commissioner or the Inspector at his request any securities, books, accounts, documents or statistics of the company which are available to him and shall give to the Commissioner or the Inspector, at his request, any information in his possession relating to the business of the company.

Penalty : Fifty pounds.

(3.) A person so specified shall not refuse to be sworn or to make an affirmation or to give information on his examination on oath or affirmation, and shall not, in reply to a request made under the last preceding sub-section, give any false information.

Penalty : Fifty pounds.

Persons to observe secrecy.
Income Tax Assessment Act, s. 16.

57.—(1.) A person shall not either directly or indirectly, except in the performance of any duty under this Act, make a record of, or divulge or communicate to any person, any information acquired by him under this Division.

(2.) A person performing any duty under this Division shall take an oath or make a declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section, Penalty: One hundred pounds or imprisonment for six months.

Action after completion of investigation.
Imp. Act 1923, s. 17.
V. 4773, s. 13.
S. Africa, s. 129 (7).

58.—(1.) After an investigation under this Division in respect of any company has been completed—

(a) the Commissioner shall transmit to the company a summary of the conclusions arrived at by him as a result of the investigation; and

(b) the Commissioner may, without affecting any powers conferred by Division 8 of this Part, issue such directions in writing to the company, in respect of its life insurance business, as he thinks necessary or proper to deal with the situation disclosed in those conclusions and, in particular, a direction that the company shall not issue any further policies (other than paid up policies as required by this Act).

(2.) No direction issued to a company under this section shall remain in force for more than twelve months, but nothing in this sub-section shall prevent the Commissioner from issuing any further direction to the company.

(3.) An appeal shall lie to the Court against any direction issued under this section.

(4.) On any such appeal, the Court may confirm, disallow or vary the direction.

Division 8.—Judicial Management and Winding-up.

Application for judicial management or winding-up.
S. Africa, s. 30.

59.—(1.) If the Commissioner, by reason of the conclusions arrived at by him as a result of an investigation under Division 7 of this Part in respect of any company is of opinion that it is necessary or proper so to do, he may apply to the Court for—

(a) an order that the company or any part of the business of the company be placed under judicial management; or

(b) an order that the company or any part of the business of the company be wound up.

(2.) A company may, in respect of itself, after giving the Commissioner one month's notice in writing of its intention so to do, apply to the Court for any order specified in the last preceding sub-section.

(3.) Both the company and the Commissioner shall be entitled to be heard on any application made to the Court under this section.

(4.) A company or any part of the business of a company shall not be judicially managed or wound up except under the provisions of this Act.

(5.) Where an application is made under this section for an order in respect of any company, all actions and the execution of all writs, summonses and other processes against the company shall, by virtue of this section, be stayed and shall not be proceeded with without the leave of the Court first obtained or unless the Court otherwise directs.

60.—(1.) An order for the judicial management of a company or of part of the business of a company made after the hearing of an application under the last preceding section shall be subject to the provisions of this section and of the next six succeeding sections.

Judicial
management.
S. Africa, s. 81.

(2.) The Court shall appoint a judicial manager who shall receive such remuneration as the Court directs, and the Court may at any time cancel the appointment and appoint some other person as judicial manager.

(3.) The Court may direct how and by whom the remuneration, charges and expenses of the judicial manager shall be borne, and may, if it thinks fit, charge that remuneration and those charges and expenses on the property of the company in such order of priority in relation to any existing charges on that property as it thinks fit.

(4.) The management of the company, or of such part of the business of the company as the order of the Court directs shall, as on and after a date specified in the order, vest in the judicial manager appointed by the Court, but, except with the leave of the Court, the judicial manager shall not issue any further policies (other than paid-up policies as required by this Act).

(5.) As on and after the date so specified, any person vested with any such management immediately prior to that date shall be divested of that management.

(6.) The Court shall issue such directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case.

(7.) The judicial manager shall act under the control of the Court, and may apply to the Court at any time for instructions as to the manner in which he shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.

(8.) The judicial manager shall give the Commissioner such information as the Commissioner requires from time to time, and shall report to the Commissioner whenever he intends to apply to the Court for instructions and shall, at the same time, furnish to the Commissioner particulars of the application.

(9.) The Commissioner shall be entitled to be heard on any such application, and may himself make application to the Court with reference to the conduct of the judicial management.

61. If at any time, on the application of the judicial manager or of any person interested, it appears to the Court that the purpose of the order for the judicial management of the company or of part of the business of the company has been fulfilled, or that for any

Cancellation
of judicial
management
order.

reason it is undesirable that the order should remain in force, the Court may cancel the order and thereupon the judicial manager shall be divested of the management which shall again vest in the board of directors or other governing body of the company.

Report by
judicial
manager.

62.—(1.) The judicial manager shall conduct the management with the greatest economy compatible with efficiency, and shall, as soon as possible, file with the Court a report stating which of the following courses is in the circumstances, in his opinion, most advantageous to the general interests of the owners of the policies of the company :—

- (a) The transfer of the business of the company to some other company or to the Commonwealth Government Insurance Office, in pursuance of a scheme to be prepared in accordance with Division 9 of this Part (whether the policies of the business continue for the original sums insured, with the addition of bonuses that attach to the policies, or for reduced amounts) ;
- (b) The carrying on of its business by the company (whether the policies of the business continue for the original sums insured, with the addition of bonuses that attach to the policies, or for reduced amounts) ;
- (c) The winding-up of the company or of any part of the business of the company ;
- (d) The dealing with part of the business of the company in one way, and with part of that business in another way ; or
- (e) Such other course as he deems advisable.

(2.) The judicial manager shall forthwith after filing the report furnish a copy of the report to the Commissioner and make an application in writing to the Court for an order to give effect to the course stated in the report.

(3.) The report or a copy of the report shall be open for inspection by any person during official hours, at the Registry of the Court in which the report is filed or at such place as the Commissioner determines.

Indemnity.

63. The judicial manager shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise, or in connexion with the exercise, of the powers conferred on the judicial manager under this Division.

Decision of
Court on
report of
judicial
manager.

64.— (1.) The Court shall on the hearing of an application made under sub-section (2.) of section sixty-two of this Act—

- (a) after hearing the Commissioner, the judicial manager and any other person who in the opinion of the Court is entitled to be heard ; and

(b) after considering the report of the judicial manager, make an order giving effect to the course which it considers in the circumstances to be most advantageous to the general interests of the owners of the policies of the company.

(2.) The order of the Court shall be binding on all persons, and shall have effect notwithstanding anything in the instruments constituting the company, or in the articles of association or other rules of the company.

65. Where an order is made by the Court for the transfer of the business of a company to some other company or to the Commonwealth Government Insurance Office the judicial manager shall prepare a scheme for the transfer in accordance with Division 9 of this Part and until the scheme is confirmed by the Court under that Division the management of the company shall continue to be vested in the judicial manager.

Transfer of
business to
another
company.

66. The Court may, either of its own motion or on the application of the judicial manager, at any time while an order under section sixty of this Act is in force with respect to a company, after hearing all persons who, in the opinion of the Court, are entitled to be heard, cancel or vary (either unconditionally or subject to such conditions as the Court thinks just) any contract or agreement (other than a policy) between the company and any other person which the Court is satisfied is detrimental to the interests of the policy owners.

Cancellation
of contracts or
agreements.

67.—(1.) An order of the Court for the winding-up of a company made after the hearing of an application under section fifty-nine of this Act or made in pursuance of section sixty-four of this Act, shall be subject to the provisions of this section and of the next four succeeding sections.

Winding-up.
S. Africa, s. 32.

(2.) The company shall be wound up by the Court which shall appoint a liquidator, who shall receive such remuneration as the Court directs, and the Court may at any time cancel the appointment and appoint some other person as liquidator.

(3.) The Court shall give such directions to the liquidator as appear to the Court to be necessary or desirable with respect to the winding-up.

(4.) The liquidator shall act under the control of the Court and may apply to the Court at any time for instructions as to the manner in which he shall conduct the winding-up or in relation to any matter arising in the course of the winding-up.

(5.) The liquidator shall give the Commissioner such information as the Commissioner requires from time to time, and shall report to the Commissioner whenever he intends to apply to the Court for instructions and shall at the same time furnish to the Commissioner particulars of the application.

(6.) The Commissioner shall be entitled to be heard on any such application, and may himself make an application to the Court with reference to the conduct of the winding-up.

(7.) Subject to this Act, and to any direction of the Court, the winding-up of a company incorporated within Australia shall be carried out in accordance with the law in force in the State or Territory in which the head office of the company is situated with respect to the winding-up of a company by a court and that law shall apply accordingly, with such modifications and adaptations as are necessary.

Ascertainment
of value of
liability under
policies.

Imp. Act
1909, 7th
Schedule.
Eng. Bill
1927, 7th
Schedule,
Pt. II.

68. The liquidator shall ascertain, in such manner and upon such basis as the Court approves, the value of the liability of the company to every person appearing by the books of the company to be entitled to or interested in policies of the business of the company, and shall in such manner as he thinks proper give notice to every such person of the value so ascertained, and every person to whom notice is so given shall be bound by the value so ascertained, unless he disputes the valuation in such manner and within such time as is prescribed by the Rules of Court, or as the Court in any particular case by order directs.

Application of
certain assets.

Eng. Bill
1927, Cl. 17.

69.—(1.) In the winding-up of a company, the value of the liabilities and the value of the assets of a statutory fund of the company shall be ascertained separately from the value of any other liabilities or from the value of any other assets of the company, and no assets of the statutory fund shall be applied to the discharge of any liabilities other than those in respect of that statutory fund except in so far as those assets exceed the liabilities of that statutory fund.

(2.) In the winding-up of a company, if, when the liabilities and assets of any statutory fund of the company have been ascertained, there is found to be a surplus of those assets over those liabilities, there shall be added to the liabilities of that statutory fund an amount equal to that proportion of the surplus so found as is equivalent to the proportion, if any, of the profits in the class or classes of life insurance business to which the statutory fund relates, allocated to shareholders and policy owners, which was allocated to policy owners during the ten years immediately preceding the commencement of the winding-up, and the assets of that statutory fund shall be deemed to exceed the liabilities of that statutory fund only in so far as those assets exceed those liabilities after that addition:

Provided that, if it appears to the Court that, by reason of special circumstances, it would be inequitable that the amount specified should be added to the liabilities of any statutory fund, the amount to be added shall be such amount as the Court directs.

Liability of
directors
and officers.
Eng. Bill
1927, Cl. 20.

70. If, in the course of the winding-up of a company, the Court is satisfied that the amount of any statutory fund has been diminished by reason of any contravention of the provisions of this Act, every person who at the time of the contravention was a director, the principal officer or an officer of the company, shall be deemed in respect of the contravention to have been guilty of misfeasance in relation to the company unless he proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the contravention; and the Court may assess the sum by which the amount of the statutory fund has been diminished by reason of the misfeasance, and may order any person guilty of the misfeasance to contribute to the statutory fund the whole or any part of that sum by way of compensation.

71. Upon the winding-up of a company, all money and securities for the time being held by the Treasurer as a deposit in respect of that company shall be paid to the liquidator and shall be applied by him in accordance with the provisions of this Act in the discharge of the liabilities of the statutory fund of the company in respect of policies.

Application of deposits.
No. 4, 1932,
s. 22 (2).

72.—(1.) If an order of the Court for the winding-up of part of the business of a company is made after the hearing of an application under section fifty-nine of this Act, or in pursuance of section sixty-four of this Act, a scheme for the purposes of that winding-up shall be prepared and submitted for the confirmation of the Court—

Winding-up of part of business of company.
Eng. Bill 1927, Cl. 18.

(a) if the order is made after the hearing of an application under section fifty-nine of this Act—by the person who made the application; or

(b) if the order is made in pursuance of section sixty-four of this Act—by the judicial manager appointed in respect of the company.

(2.) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding-up), for any future rights of every class of policy owners in respect of their policies, and for the manner of winding-up any of the business of the company which is proposed to be wound up, and may contain such provisions as are expedient for giving effect to the scheme.

(3.) The provisions of sections sixty-seven, sixty-eight, sixty-nine, seventy and seventy-one of this Act shall apply, with such alterations as are necessary, in a winding-up in accordance with a scheme under this section.

Division 9.—Transfer and Amalgamation.

73. The life insurance business of any company shall not, either in whole or in part, be transferred to, or amalgamated with the life insurance business of, any other company, except in pursuance of a scheme prepared in accordance with this Division and submitted to and confirmed by the Court as prescribed in this Division.

Transfer or amalgamation.
Imp. Act 1909, s. 13.
Eng. Bill 1927, Cl. 13.
V. 4602, s. 539.
Q., s. 30.
S.A., s. 32.
W.A., s. 48.
T., s. 25.

74. A scheme prepared in accordance with this Division shall set out the terms of the agreement or deed under which it is proposed to effect the transfer or amalgamation, and shall contain such further provisions as are necessary for giving effect to the scheme.

Preparation of scheme.

75.—(1.) Before an application is made for confirmation by the Court of any scheme for transfer or amalgamation—

Imp. Act 1909, s. 13.
Eng. Bill 1927, Cl. 13.
Q., s. 30.
T., s. 25.

(a) a copy of the scheme shall be lodged with the Commissioner together with copies of the actuarial and other reports (if any) upon which the scheme is founded;

Submission, confirmation and effect of schemes.

(b) notice of the intention to make the application (containing such particulars as are prescribed) shall, not less than one month after the copy of the scheme has been

Imp. Act 1909, s. 18.
Eng. Bill 1927, Cl. 25.
V. 4602, s. 539.
Q., s. 30.
S.A., s. 30.
W.A., s. 46.
T., s. 25.

lodged with the Commissioner, be published in the *Gazette* and in newspapers approved by the Commissioner, circulating in each State and Territory in which any company concerned has a registry, and, for a period of fifteen days after the publication of the notice, the scheme shall be open to inspection, at each registry of every company concerned, by any policy owners or shareholders affected by the scheme ;

- (c) the Commissioner may cause a report on the scheme to be made by an independent actuary, and shall cause a copy of the report to be sent to each of the companies concerned ;
- (d) any directions which are given by the Court, upon application made in that behalf, with respect to any proposed scheme, as to the publication of advertisements of schemes, the giving of notices to shareholders, or to policy owners or other creditors of the companies concerned, or as to the holding of meetings of any company affected, shall be complied with by the person to whom the directions are given ; and
- (e) copies of the scheme and of every report received by the Commissioner in accordance with the provisions of this sub-section or summaries of the scheme and reports approved by the Commissioner shall, unless the Court, upon application made in that behalf, otherwise directs, be transmitted by the companies concerned, at least fifteen days before application is made for confirmation of the scheme, to every policy owner of any class affected by the scheme.

(2.) An application to the Court for the confirmation of the scheme may be made by or on behalf of any company concerned, and an application to the Court with respect to any matter connected with a scheme or proposed scheme may be made, at any time before confirmation by the Court, by the Commissioner or by any person who in the opinion of the Court is likely to be affected by the scheme or proposed scheme.

(3.) Any person who in the opinion of the Court is likely to be affected shall be entitled to be heard on any application made to the Court under this section.

(4.) The Court may confirm the scheme, either without modification, or subject to such modifications as the companies concerned agree to, or may refuse to confirm the scheme.

(5.) The scheme, when confirmed by the Court, shall be binding on all persons, and shall have effect notwithstanding anything in the instruments constituting the company or in the articles of association

or other rules of the company, and the directors of any company affected by the scheme shall cause a copy of the scheme to be filed with the Registrar of Companies in every State or Territory in which the company carries on life insurance business.

(6.) All expenses incurred by the Commissioner in obtaining any actuary's report on the scheme shall be defrayed by the companies concerned, and any sum due in respect of those expenses may be recovered by the Commissioner summarily as a civil debt from the companies jointly.

76. Where the life insurance business carried on by a company is transferred to, or amalgamated with the life insurance business of, another company, the company to which the life insurance business is transferred, or the company carrying on the amalgamated life insurance business, as the case may be, shall, within one month after the completion of the transfer or amalgamation, lodge with the Commissioner—

- (a) certified copies of statements of the assets and liabilities of every company concerned in the transfer or amalgamation, together with a statement of the nature and terms of the transfer or amalgamation;
- (b) certified copies of the scheme and of the agreement or deed under which the transfer or amalgamation was effected and a certified copy of the order of the Court confirming the scheme;
- (c) certified copies of the actuarial or other reports upon which the scheme and the agreement or deed were founded; and
- (d) a statutory declaration, made by the chairman of directors or by the principal officer of the company, fully setting forth every payment made or to be made to any person whatsoever on account of the transfer or amalgamation, and stating that to the best of his belief no other payment beyond those so set forth has been or is to be made in money, policies, bonds, valuable securities, property of any description or any other valuable consideration, by or with the knowledge of any parties to the transfer or amalgamation.

Returns to be made in case of transfers or amalgamations.

Imp. Act 1900, s. 14.
Eng. Bill 1927, Cl. 14.
V. 4602, s. 540.
Q., s. 31.
S.A., s. 38.
W.A., s. 48.
T., s. 26.

PART IV.—PROVISIONS RELATING TO POLICIES.

Division 1.—Issue of Policies.

77.—(1.) A company shall, if the Commissioner so requires, submit to the Commissioner any form of proposal or policy ordinarily used by the company in Australia, or any form of written matter ordinarily so used and describing the terms or conditions of, or the benefits to be or likely to be derived from, policies.

(2.) The Commissioner shall consider each form so submitted, and, if he is of opinion that the form is not in compliance with this Act, or contains anything likely to mislead a proponent or policy owner, he shall object to the form.

Certain forms to be submitted for approval.
N.Z. 1920, s. 8.

(3.) The Commissioner shall not object to any form until he has given the company an opportunity of being heard by him on the matter.

(4.) The Commissioner shall, in writing, notify the company of any objection taken by him to any form submitted.

(5.) A company shall not accept any proposal or issue any policy or written matter if the proposal, policy or written matter is in a form to which the Commissioner has objected under this section.

Premium
rates.

78.—(1.) A company shall not issue any policy unless the rate of premium chargeable under the policy is a rate which has been approved by an actuary as suitable for the class of policy to which that policy belongs.

(2.) The Commissioner may, at any time, require the company to obtain, and to furnish him with, a report by an actuary as to the suitability of the rate of premium chargeable under any class of policy issued by the company and, if the actuary considers that the rate is not suitable, a report as to the rate of premium which the actuary approves as suitable in respect of that class of policy.

(3.) Where any requirement is made under the last preceding sub-section in respect of the rate of premium chargeable under any class of policy, the company shall not issue any policy of that class until the company has, in accordance with the requirement, obtained the approval of the actuary to the rate of premium.

(4.) An actuary in approving a rate of premium in respect of any class of policy under this section shall have regard to the maximum rate of commission or rebate proposed to be paid or allowed to any person in respect of that class of policy.

Commissions
or rebates in
respect of
policies.

79. Where a rate of premium is approved by an actuary in respect of any class of policy the company shall not, except with the approval of an actuary or the Commissioner, pay or allow in respect of any policy of that class a commission or rebate at a rate greater than—

(a) the maximum rate of commission or rebate to which the first-mentioned actuary had regard when approving the rate of premium; or

(b) the maximum rate of commission or rebate payable by the company, immediately prior to the commencement of this Act, in respect of policies of that class (if any) issued at the rate of premium so approved,

whichever is the greater.

Particulars as
to age of
person to be
insured.

80. A form of proposal shall be framed so as to require a person making a proposal for a life policy to specify the place and date of birth of the person whose life is proposed to be insured, and it shall be the duty of the person making the proposal to supply those particulars to the best of his knowledge and belief.

Notice
regarding proof
of age.

81. In respect of any life policy issued by a company after the commencement of this Act, the company shall, unless the age of the life insured has already been admitted by it, issue with the policy a printed notice stating that proof of age of the life insured may be required prior to the payment of the sum insured.

82.—(1.) If a company declines to accept the proof of age tendered in respect of a policy, whether issued before or after the commencement of this Act, the policy owner may apply to the Court, or to the Supreme Court or a County Court, District Court or Local Court of Full Jurisdiction of a State or Territory, by summons, for an order directing the company to accept the proof tendered.

Procedure where company declines to accept proof of age.

(2.) On any such application, the court may make such order in relation to the application as it thinks just.

(3.) Every order under this section shall be binding on the company and shall be complied with on its part.

83.—(1.) A policy shall not be avoided by reason only of a mis-statement of the age of the life insured.

Mis-statement of age.

(2.) In the event of the true age as shown by the proofs being greater than that on which the policy was based, the company shall be entitled to vary the amount assured and vested bonuses (if any) payable under the policy so that they shall bear the same proportion to the amount assured and vested bonuses (if any) as the amount of premiums actually paid on the policy bears to the amount of premiums that ought to have been paid if there had been no mis-statement of age.

Imp. Act 1923, s. 20 (4) (i).
V. 4602, s. 563.
Q., ss. 21, 22.

(3.) In the event of the true age as shown by the proofs being less than that on which the policy was based the company shall—

(a) vary the amount assured and vested bonuses (if any) payable under the policy so that they shall bear the same proportion to the amount assured and the vested bonuses (if any) as the amount of premiums actually paid on the policy bears to the amount of premiums that ought to have been paid if there had been no mis-statement of age; or

at its option—

(b) reduce the premium payable (if any) to the amount which would have been payable if there had been no mis-statement of age; and

(c) repay to the policy owner the amount of all over-payments of premium less the amount of any cash value of bonuses which have been paid in respect of the policy in excess of the cash value that would have been paid if there had been no mis-statement of age.

84. A policy shall not be avoided by reason only of any incorrect statement (other than a statement as to the age of the life insured) made in any proposal or other document on the faith of which the policy was issued or reinstated by the company unless the statement—

Incorrect statement in proposal not to avoid policy.

(a) was fraudulently untrue; or

(b) being a statement material in relation to the risk of the company under the policy, was made within the period of three years immediately preceding the date on which the policy is sought to be avoided or the date of the death of the life insured, whichever is the earlier.

Imp. Act 1923, s. 20.
V. 4464, s. 2.
V. 4600, s. 3.

Minors.
 Cf. O. 1901, No.
 20, s. 20.
 N.Z. 1908, s. 75,
 1920, s. 4.

85.—(1.) A minor who has attained the age of sixteen years may effect a policy upon his own life.

(2.) A minor who has attained the age of ten years but has not attained the age of sixteen years may, with the written consent of his parent or of a person acting *in loco parentis* of the minor, effect a policy on his own life.

(3.) Every minor who has attained the age of sixteen years shall be as competent in all respects to be a policy owner, and to have and to exercise all the powers and privileges of a policy owner in relation to the policy, as fully and effectually as if he were of full age :

Provided that the minor shall not be competent to assign or mortgage the policy without the consent in writing of his parent or of a person acting *in loco parentis* of the minor.

Insurable
 interest.
 Ontario 1927,
 Ch. 222, s. 135.

86.—(1.) An insurable interest shall be deemed to be had by—

- (a) a parent of a child under twenty-one years of age, or a person *in loco parentis* of such a child—in the life of the child ;
- (b) a husband—in the life of his wife ;
- (c) a wife—in the life of her husband ;
- (d) any person—in the life of another upon whom he is wholly or in part dependent for support or education ;
- (e) a corporation or other person—in the life of an officer or employee thereof ; and
- (f) a person who has a pecuniary interest in the duration of the life of another person—in the life of that person.

(2.) This section shall apply to policies whether effected before or after the commencement of this Act.

(3.) This section shall not be construed to limit or restrict in any way the meaning of insurable interest as understood at the commencement of this Act.

Division 2.—Assignments and Mortgages of Policies.

Assignments
 of policies.
 V. 4602, s. 556.
 Q. s. 41.
 S.A., ss. 22-23.
 W.A., ss. 72-73.
 T., s. 41.

87.—(1.) Subject to section ninety-one of this Act, every assignment of a policy made after the commencement of this Act shall be by memorandum of transfer endorsed upon the policy in accordance with the form set forth in the Fifth Schedule to this Act and signed by the transferor and the transferee, and no such assignment shall be valid until registered as provided in this section by the company liable under the policy.

(2.) Every such assignment shall be registered in a register to be provided by the company for that purpose, and the date of registration shall be inserted in the memorandum of transfer, which shall also be signed by the principal officer of the company or a person thereto authorized by him in writing.

(3.) The transferee under a duly registered assignment shall have all the powers and be subject to all the liabilities of the transferor under the policy, and may sue in his own name on the policy :

Provided that nothing in this section shall be construed to admit the transferee to membership of a company or to deprive the transferor of his membership in respect of a policy, except as provided in the instruments constituting the company or in its articles of association or other rules.

(4.) The receipt of the transferee shall be a discharge to the company for all moneys paid by the company under the policy.

(5.) Every such memorandum of transfer signed as provided in this section shall be conclusive evidence of its registration and of the date of registration.

(6.) Every such memorandum shall, as between the company and any person claiming any moneys under the policy, be conclusive evidence for all purposes that the transferee was at the time of registration the absolute owner of the policy, free from all trusts, rights, equities and interests (except liens or charges which the company has upon the policy), and legally entitled to receive and give a discharge for those moneys.

(7.) Any discharge or surrender of or security over the policy given to the company by the transferee shall be valid and effectual, notwithstanding the existence of any trust, right, equity or interest of any other person.

(8.) The company taking the discharge, surrender or security shall not be required or concerned to inquire or ascertain the circumstances in which or the consideration for which the transferee or any previous transferee became such transferee, or, except as provided by section eighty-nine of this Act be affected by express, implied or constructive notice of any trust, right, equity or interest.

88. If any policy is assigned by way of mortgage, or upon any trust, the mortgage or trust shall be effected by way of defeasance or declaration of trust by some separate instrument, and no notice of the mortgage or trust shall be entered on the memorandum of transfer or endorsed on the policy, and the company shall not, except as provided by the next succeeding section, be affected by express, implied or constructive notice of any such mortgage or trust.

Mortgages and trusts.
V. 4602, s. 557.
Q., s. 42.
S.A., s. 24.
W.A., s. 74.
T., s. 42.

89.—(1.) Notwithstanding anything contained in the last two preceding sections, a company shall not be entitled to any protection under those sections or to rely upon any of the provisions of those sections if the company has not acted in good faith or has received express notice in writing of any trust, right, equity or interest of any person.

Effect of notice of trust.
Cf. V. 4602, s. 558.

(2.) In case of the receipt of any such notice the company may if it thinks fit pay into the Court any moneys payable under the policy, and the receipt of the Principal Registrar or a Deputy Registrar of the Court for the moneys shall be a good and valid discharge to the company for the moneys so paid in.

(3.) The moneys shall be paid out to such person as the Court or any Justice of the Court orders.

Assignment of mortgage of industrial policy not valid without consent of company.

90.—(1.) Notwithstanding anything to the contrary in this Division, no assignment of an industrial policy made after the commencement of this Act shall be valid without the consent of the company liable under the policy.

(2.) If the company refuses its consent, the policy owner may appeal to the Commissioner whose decision shall be final.

Registration of policies held by trustees.
A.M.P. 1941,
s. 5.

91. Whenever a company is satisfied that a policy has been issued or transferred to any person as a trustee, and that provision is made in the trust for the retirement of trustees and for the appointment of new trustees in addition to or in place of the trustees for the time being, it shall be lawful for but not obligatory on the company, at the request in writing of the persons claiming to be the trustees for the time being of the policy, and on the evidence of a statutory declaration by one of those persons that they are the trustees for the time being of the policy duly appointed, to enter on the register the names of those persons as the owners of the policy, and thereupon the company may deal with those persons as the owners of the policy and their receipt shall be a valid discharge both at law and in equity for all moneys payable under the policy.

Division 3.—Protection of Policies.

Interest of insured protected in certain cases.
N.S.W., ss. 4–7.
V. 4602, s. 554.
Q., s. 18.
S.A., s. 7.
W.A., ss. 33–34.

92.—(1.) Subject to the *Bankruptcy Act* 1924–1933, the property and interest of any person in a policy effected (whether before or after the commencement of this Act) upon his own life shall not be liable to be applied or made available in payment of his debts by any judgment, order or process of any court.

(2.) In the event of a person whose life is insured dying after the commencement of this Act, the moneys payable upon his death under or in respect of a policy effected upon his life shall not, subject to the *Bankruptcy Act* 1924–1933, be liable to be applied or made available in payment of his debts by any judgment, order or process of any court, or by retainer by an executor or administrator, or in any other manner whatsoever, except by virtue of a contract or charge made by the person whose life is insured, or by virtue of an express direction contained in his will or other testamentary instrument executed by him that the moneys arising from the policy shall be so applied.

(3.) A direction to pay debts, or a charge of debts upon the whole or any part of the testator's estate, or a trust for the payment of debts, shall not be deemed to be such an express direction.

Insurance by married women.
Of. 45–46 Vict.,
s. 75 s. 11.
Q. 1901, No. 20,
s. 19.

93.—(1.) A married woman may effect a policy upon her own life or upon the life of her husband, for her separate use, and the policy and all benefits of the policy shall enure accordingly.

(2.) The protection of the last preceding section shall extend to any such policy *bona fide* effected by a married woman.

94.—(1.) Subject to the *Bankruptcy Act* 1924–1933, a policy effected (whether before or after the commencement of this Act) by any man upon his own life, and expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them, or by any woman upon her own life, and expressed to be for the benefit of her husband, or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects named in the policy, and the moneys payable under any such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the person whose life is insured, or be subject to his or her debts.

Family
Insurance
policies.
N.S.W., *as. d. v.*
Q., s. 19.

(2.) The person whose life is insured may by the policy, or by any memorandum under his or her hand, appoint trustees of the moneys payable under the policy, and from time to time appoint new trustees of the moneys, and may make provision for the appointment of new trustees of the moneys, and for the investment of the moneys payable under the policy.

(3.) Subject to the next succeeding sub-section, if at any time there is no trustee, the policy shall vest in the person whose life is insured, and his personal representatives, in trust for the purposes referred to in, and subject to, sub-section (1.) of this section.

(4.) If, at any time, there is no trustee and the policy is not vested in any person in pursuance of the last preceding sub-section and it is expedient to appoint trustees or new trustees, trustees or new trustees may be appointed by the Court.

(5.) The receipt of a trustee or, if there is no trustee or in default of notice to the company of the existence of a trustee, the receipt of the person whose life is insured or of his personal representative, shall be a discharge to the company for the sum payable under the policy, or for the value of the policy, in whole or in part.

(6.) Any trustee or, if there is no trustee or in default of notice to the company of the existence of a trustee, the person whose life is insured or his personal representative may vary the terms of the policy in any manner permitted by the company, surrender the policy in whole or in part, or borrow money upon the policy, and any money obtained by any such variation, surrender or borrowing shall be subject to the same trusts as those upon which the policy was or is held.

Division 4.—Paid-up Policies, Surrender Values and Non-forfeiture.

95.—(1.) The provisions of this Division, other than this section, shall not apply to—

Application of
Division.
V. 4747. s. 2

- (a) an instrument securing the grant of an annuity for a term dependent upon human life, not being a deferred annuity during the period of deferment; or

(b) a policy which provides insurance against contingencies none of which may happen, not being a policy which provides for the payment of a sum of money if the life insured by the policy survives a specified period.

V. 4747, s. 8.

(2.) The Governor-General may, on the recommendation of the Commissioner, by regulation declare that the provisions of this Division shall apply in respect of any policy or class of policies with such modifications as are declared in the regulation, and the provisions of this Division shall apply in respect of that policy or class of policies accordingly.

Paid-up
policies.

V. 4608, ss. 4-5
V. 4747, s. 5.

96.—(1.) A policy owner who desires to discontinue further premium payments on a policy on which not less than three years' premiums have been paid in cash, shall, on application to the company, be entitled to receive, in lieu of that policy, a paid-up policy, for an amount not less than that determined in accordance with the Rules in that behalf set out in Part I. of the Sixth Schedule.

(2.) The paid-up policy shall be payable upon the happening of the contingency upon the happening of which the amount insured under the original policy would have been payable.

Surrender of
policies.

V. 4608, s. 6.
V. 4747, s. 6.

97.—(1.) The owner of a policy which has been in force for at least six years, shall, on application to the company, be entitled to surrender the policy and to receive not less than the surrender value of the policy less the amount of any debt owing to the company under, or secured by, the policy.

(2.) In the application of the last preceding sub-section to a paid-up policy which has been issued in lieu of another policy, the period of six years shall be calculated from the date of issue of the original policy.

Calculation of
surrender
values.

V. 4608, s. 6.
V. 4747, s. 6.

98. For the purposes of this Division the surrender value of a policy shall be the amount calculated in accordance with the Rules in that behalf set out in Part II. of the Sixth Schedule.

Relaxation of
obligations as
to surrender
values.

V. 4608, s. 7.
V. 4747, s. 7.

99. The Commissioner may, on application by a company, if, in his opinion, the payment in cash of surrender values as required by this Division would be prejudicial to the financial stability of the company or to the interests of the policy owners of that company, suspend or vary, for such period and subject to such conditions as the Commissioner thinks fit, the obligation of the company to pay those surrender values.

Non-forfeiture
of ordinary
policies in
certain cases on
non-payment of
premiums.
V. 4747, s. 3.

100.—(1.) An ordinary policy shall not be forfeited by reason only of the non-payment of any premium (in this section referred to as "the overdue premium") if—

(a) not less than three years' premiums have been paid in cash on the policy; and

(b) the surrender value of the policy (calculated as at the day immediately preceding that on which the overdue premium falls due) exceeds the sum of the amount of the debts owing to the company under, or secured by, the policy, and the amount of the overdue premium.

(2.) The company may, until payment of the overdue premium, charge compound interest on it, on terms not less favorable to the policy owner than such terms (if any) as are prescribed.

(3.) The overdue premium and any interest charged on it under this section and unpaid shall for the purposes of this Act be deemed to be a debt owing to the company under the policy.

(4.) Without affecting the generality of the foregoing provisions of this section, an ordinary policy on which not less than three years' premiums have been paid in cash shall not be forfeited by reason only of the non-payment of a premium unless, on or after the day on which the premium fell due—

(a) the company liable under the policy serves a notice on the policy owner stating—

(i) the amount due or payable to the company at the date of the notice in respect of the policy; and

(ii) that the policy will be forfeited at the expiration of twenty-eight days after the date of the notice if a sufficient sum is not paid to the company in the meantime; and

(b) a period of at least twenty-eight days has elapsed after the service of the notice.

101.—(1.) An industrial policy on which less than one year's premiums have been paid shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than four weeks after it became due.

Non-forfeiture
of industrial
policies in
certain cases on
non-payment
of premiums,
V. 4608, ss. 8, 5.

(2.) An industrial policy on which not less than one year's but less than two years' premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than eight weeks after it became due.

(3.) An industrial policy on which not less than two years' premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than twelve weeks after it became due.

(4.) In the event of an industrial policy on which not less than three years' premiums have been paid being forfeited by reason of the non-payment of any premium, the company shall, without requiring any application from the policy owner, grant a paid-up policy for an amount not less than that calculated in accordance with the Rules in that behalf set out in Part I. of the Sixth Schedule.

(5.) The paid-up policy shall be payable upon the happening of the contingency upon the happening of which the amount insured under the original policy would have been payable.

(6.) The company shall notify the policy owner in writing of the fact that the paid-up policy has been granted and shall specify the amount of the policy and the contingency upon which the policy is payable.

Treatment of
debts on grant
of paid-up
policies.

102. Where in pursuance of any provision of this Division a policy owner is entitled to receive, or a company is required to grant, a paid-up policy and there is any debt owing to the company under or secured by the policy, the company may elect—

- (a) to treat the debt so owing as a debt secured by the paid-up policy, and thereupon the paid-up policy shall be a security for the debt so owing; or
- (b) in the ascertainment of the amount of the paid-up policy, to reduce the amount by taking into account, upon a basis approved by the Commissioner, the debt so owing to the company; and thereupon the debt shall cease to be owing to the company.

Division 5.—Payment of Policy Moneys.

Probate or
administration
may be
dispensed with
in certain cases.
V. 4602, s. 555.
Q., s. 39.
S.A., s. 71.
W.A., s. 70.
T., s. 39.

103.—(1.) In any case in which the moneys payable under any policy or policies insuring in the aggregate an amount not exceeding Five hundred pounds exclusive of bonus additions are payable to the personal representative of any deceased person, the company, without requiring the production of any probate or letters of administration, may pay the moneys, together with any bonus which has been added to the policy or policies, to any person who is the husband, wife, father, mother, child, brother, sister, nephew or niece of the deceased person, or to any person who satisfies the company that he is entitled to the property of the deceased person under his will or under the law relating to the disposition of the property of deceased persons or that he is entitled to obtain probate of the will of the deceased person, or to take out letters of administration of his estate.

(2.) The company making any such payment shall be thereby discharged from all further liability in respect of the moneys payable under the policy or policies.

(3.) All persons to whom any such moneys are paid shall apply those moneys in due course of administration and, if the company thinks fit, it may require those persons to give sufficient security by bond or otherwise that the moneys so paid will be so applied.

104. A company shall not in any circumstances be bound or concerned to see to the application of any moneys paid by the company in respect of any policy.

Company not
bound to see to
application of
moneys paid
by it.

Q., s. 43.
S.A., s. 72.
W.A., s. 71.
T., s. 40.

Power to pay
money into
Court.

Or. 59 Vct., c. 8,
s. 3, 4.
Q., s. 40.

105.—(1.) A company may, subject to any Rules of Court in that behalf, pay into the Court any moneys payable by the company in respect of a policy for which, in the opinion of the company, no sufficient discharge can otherwise be obtained.

(2.) The receipt of the Principal Registrar or a Deputy Registrar of the Court for the moneys shall be a good and valid discharge to the company for the moneys so paid in, and the moneys shall, subject to the Rules of Court, be dealt with according to the order of the Court.

Unclaimed
moneys.

106.—(1.) Every company shall, within three months after the thirty-first day of December in each year, deliver to the Treasurer a statement of all unclaimed moneys.

(2.) The statement shall set forth, in respect of each policy to which the statement refers, the name of the person whose life is insured, the name of the policy owner (if known), their last-known addresses, the amount due, the date upon which it became due and the State or Territory in which the policy is registered.

(3.) The total amount shown in the statement shall be paid by the company to the Treasurer at the time of the delivery of the statement.

(4.) After the payment to the Consolidated Revenue Fund of any unclaimed moneys, the Treasurer may pay to any person to whom any amount of those moneys was due by the company the amounts so due.

(5.) Upon payment to the Treasurer of any amount as required by this section the company shall be held to be discharged from further liability for the amount so paid.

(6.) The Consolidated Revenue Fund is hereby appropriated for the purposes of, and to the extent necessary to give effect to, sub-section (4.) of this section.

(7.) Particulars of every sum not less than Ten pounds included in the statement mentioned in this section shall be published by the Treasurer in the *Gazette*.

(8.) A company shall not contravene or fail to comply with any provision of this section which is applicable to it.

Penalty : One hundred pounds.

(9.) For the purposes of this section, " unclaimed moneys " means all sums of money whatsoever which after the commencement of this Act become legally payable by a company in respect of policies but in respect of which the time within which proceedings may be taken for their recovery has expired, and includes all sums of money payable on the maturity, after the commencement of this Act, of an endowment policy or endowment insurance policy which are not claimed within seven years after the maturity date of the policy.

107. Where a claim arising under a policy is paid, no deductions shall, except with the consent in writing of the claimant, be made on account of premiums or debts due to the company under any other policy.

No deductions
in respect of
other policies.
Imp. Act 1923.
s. 27.

Division 6.—Payments on Death of Children under Ten Years of Age.

108. In this Division, unless the contrary intention appears—

Definitions
No. 12, 1906
s. 1.

" Register of Deaths " means any register kept in any State or Territory under any law for the registration of deaths in force in that State or Territory ;

" registered medical practitioner " means any person who, under the law of any State or Territory, is a legally qualified medical practitioner in that State or Territory ;

" Registrar of Deaths " means any person authorized by the law of any State or Territory relating to the registration of deaths to issue certificates of death in that State or Territory ;

“repayment of premiums” means repayment, either with or without interest, simple or compound, at a rate not exceeding Four pounds per centum per annum, to the person effecting a policy, or to his executors, administrators or assigns, of the whole or part of the premiums paid in respect of the policy.

Limitation of
amount payable
on death of
children.
No. 12, 1905,
s. 2.

109. A company shall not, by any policy effected on the life of a child, contract to pay on the death of the child under ten years of age any sum of money (apart from repayment of premiums) which, added to any amount payable (apart from repayment of premiums) on the death of the child under ten years of age by any other company or by any friendly society, exceeds the amount specified in the Seventh Schedule and applicable to the case (in this Division referred to as “the amount payable under the Seventh Schedule”).

Production of
prescribed
certificate of
death.
Ibid. s. 3.

110. A company shall not pay any sum (apart from repayment of premiums) on the death of a child under ten years of age, except upon production of a certificate of death issued by a Registrar of Deaths and containing the particulars mentioned in this Division.

Certificates of
death.
Ibid. s. 4.

111.—(1.) Where application is made for a certificate of the death of a child for the purpose of obtaining from a company a sum of money (apart from repayment of premiums), the name of the company and the sum sought to be obtained from the company shall be stated to the Registrar of Deaths.

(2.) The Registrar of Deaths shall write on or at the foot of the certificate the words “To be produced to the _____ company [naming company] said to be liable for the payment of the sum of _____ [stating the sum]”.

(3.) All such certificates of the same death shall be numbered in consecutive order.

(4.) A Registrar of Deaths shall not issue any one or more certificates of death of a child under the age of ten years for the payment in the whole of any sum of money exceeding the amount payable under the Seventh Schedule.

(5.) A Registrar of Deaths shall not issue any such certificate unless—

- (a) the cause of death has been previously entered in the Register of Deaths on the certificate of a coroner or of a registered medical practitioner who attended the deceased child during its last illness ;
- (b) a certificate under the hand of a registered medical practitioner of the probable cause of death is produced to him ; or
- (c) other satisfactory evidence of the cause of death is furnished to him.

(6.) A company to which is produced a certificate which does not purport to be the first of the death of a child under the age of ten years shall, before paying any money on the death, inquire whether any and what sums of money have been paid on the same death by any other company or friendly society.

112. It shall be an offence against this Act—

*Offences and
penalties.
No. 12, 1905,
s. 6.*

- (a) if a company pays any money on any policy taken out after the commencement of this Act on the death of a child under ten years of age otherwise than as allowed by this Division ;
- (b) if a person claiming money (apart from repayment of premiums) on the death of a child under ten years of age produces a certificate of the death other than as provided in this Division to the company from which the money is claimed, or produces a false certificate or one fraudulently obtained, or in any way attempts to defeat the provisions of this Division ; or
- (c) if in a policy issued by a company after the commencement of this Act, insuring payment of a sum of money (apart from repayment of premiums) on the death of a child under ten years of age, it is not set forth that the total sum recoverable as insurance moneys or other benefits from any one or more companies or friendly societies on the death of the child under ten years of age (apart from repayment of premiums) does not exceed the amount payable under the Seventh Schedule.

Penalty : Fifty pounds.

113. None of the preceding sections of this Division shall apply to any policy on the life of a child when the person effecting the insurance has an insurable interest (apart from the provisions of paragraph (a) of sub-section (1.) of section eighty-six of this Act) in the life of the child.

*Saving as to
insurable
interest.
Ibid. s. 5.*

Division 7.—Children's Advancement Policies.

114.—(1.) In this Division, unless the contrary intention appears—

*Definitions.
A.M.P. 1941,
s. 6.*

“ child's advancement policy ” means a policy effected, before a child has attained the age of twenty-one years, by a person other than the child, under which one or both of the following provisions is or are made :—

- (a) provision for payment of a sum to the executors, administrators or assigns of the child on his death after attaining the vesting age ;
- (b) provision for payment of a sum to the child or his assigns on his attaining an age not less than the vesting age.

either with or without provision for repayment of premiums, within the meaning of section one hundred and eight of this Act, in the event of the death of the child before attaining the vesting age ;

“ vesting age ” means—

(a) the age of twenty-five years ; or

(b) an age (not less than ten years) on and after the attainment of which by the child it is specified in the policy that sums payable in respect of the policy by the company which issued it shall be paid to the child or his executors, administrators or assigns,

whichever is the earlier.

(2.) For the purposes of this section, and of section one hundred and sixteen of this Act, the specifying in a policy of a date, without specifying the age of the child at that date, shall be deemed to be a specifying of the age of the child at that date.

Child's
advancement
policy not void
for want of
insurable
interest.

115. A child's advancement policy effected either before or after the commencement of this Act shall not be deemed to be void by reason only that the person effecting the policy had not at the time the policy was effected an insurable interest in the life of the child.

Property in
child's
advancement
policy.
A.M.P. 1941,
s. 6.

116.—(1.) The provisions of this section shall apply to every child's advancement policy, whether effected before or after the commencement of this Act, unless (in the case of a policy effected by a parent or a person *in loco parentis* of the child) it is expressly provided in the policy that this section shall not apply to it.

(2.) Subject to sub-section (4.) of this section, the policy shall, unless and until the child attains the vesting age, be the absolute property both at law and in equity of the person effecting the policy or his assigns, and that person or his assigns, shall, unless and until the child attains the vesting age, be competent, and in the case of a policy effected before the commencement of this Act be deemed to have been competent, to alienate, mortgage, charge, surrender, vary or otherwise deal with the policy in any way whatever.

(3.) Where a child whose life is insured under any child's advancement policy has, whether before or after the commencement of this Act, attained the vesting age, the policy shall be deemed to have been or, as the case may be, shall become, as on and after the date on which the child attained the vesting age, the absolute property of the child both at law and in equity, subject—

(a) to any debt owing to the company under, or secured by, the policy ;

(b) to any dealing done, prior to the attainment by the child of the vesting age, by the owner of the policy ; and

(c) to any dealing done, after the attainment by the child of the vesting age and prior to the commencement of this Act, by the owner of the policy.

(4.) On the death or bankruptcy, during the child's lifetime and before he attains the vesting age, of the owner of the policy, the executors, administrators, official receiver or trustee in bankruptcy of the owner of the policy as the case may be (in this sub-section referred to as "the representative") shall, subject to any dealings other than testamentary by the owner of the policy before his death or bankruptcy, hold the policy in trust for the child until he attains the vesting age, or dies before attaining the vesting age and the representative shall have power at his discretion to alienate, mortgage, charge, surrender, vary or otherwise deal with the policy and apply the proceeds as he thinks fit for the maintenance or benefit of the child and the upkeep of the policy, and the company issuing the policy shall be under no obligation to see to the application of the proceeds, and in the event of the death of the child before attaining the vesting age, the moneys payable under the policy shall be applied in like manner as if this sub-section were not in force.

(5.) Nothing in this section shall invalidate any payment made before the commencement of this Act in respect of a child's advancement policy if the payment, but for this Act, would have been valid.

Division 8.—General.

117.—(1.) A company shall have in each State in which it carries on life insurance business at least one office (in this Act referred to as a "registry") in which it shall keep a register of policies.

(2.) A company may have one or more registries in each Territory in which it carries on life insurance business.

(3.) A company shall have a representative in charge of each registry.

(4.) Notice in writing of the situation of each registry and of the name of the representative in charge of each registry shall be lodged with the Commissioner.

(5.) Whenever any change takes place in the situation of a registry or in the identity of a representative in charge of a registry, notice in writing of the change shall be lodged with the Commissioner.

118.—(1.) Every policy existing at the commencement of this Act, under which the liability of a company is payable in Australia, shall as at that commencement be registered by the company in a register kept at a registry in Australia.

(2.) Every policy issued by a company in Australia after the commencement of this Act shall immediately after issue be registered by the company in a register—

(a) at a registry in the State or Territory in which the policy owner resides, or in the event of the policy owner residing in a Territory where the company has no registry, at such registry in Australia as the policy owner elects; or

(b) at such other registry as is agreed upon by the company and policy owner.

(3.) Unless otherwise agreed by the company and the policy owner, all moneys payable in respect of a policy shall be payable at the registry at which it is for the time being registered.

Registries and
Registers.

V. 4602, ss.

560-565.

Q., ss. 45-46. 57

S.A., ss. 17-20.

W.A., ss. 78-81

Registration
of policies.

(4.) A policy on any register at a registry of a company in Australia shall, at the request in writing of the policy owner, be transferred by the company to a register at any other registry in Australia.

(5.) Any policy may, at the request in writing of the policy owner and with the consent of the company, be transferred from a register outside Australia to a register in Australia, or from a register in Australia to a register outside Australia.

(6.) All expenses incurred in connexion with any transfer of a policy in pursuance of either of the last preceding sub-sections shall be borne by the policy owner.

(7.) For the purposes of this and the last preceding section, a register of policies kept by a company shall be deemed to be in or at a registry if it is kept, in respect of that registry, at the head office of the company in Australia.

Lost policy.

N.S.W., ss.
11-13.
V. 4602, s. 566.
Q., s. 44.
S.A., ss. 8-16.
W.A., s. 77.
T. 1906, ss. 4-10.

119.—(1.) If the owner of a policy claims that the policy is lost or has been destroyed, the company liable under the policy may, upon application by the policy owner and upon such evidence of loss or destruction as the company deems sufficient, issue to the policy owner a special policy in substitution for that policy.

(2.) Every special policy shall be a copy, as nearly as can be ascertained, of the policy for which it has been issued in substitution, shall contain copies of every endorsement on the policy registered by the company, and shall state the reason for the issue of the special policy.

(3.) Before issuing a special policy the company shall, if the amount insured exceeds One hundred pounds, give at least one month's notice of its intention so to do—

- (a) in at least one newspaper circulating in the State or Territory in which the policy is registered; and
- (b) in at least one newspaper circulating in the neighbourhood where the policy owner resides or in at least one newspaper circulating in the district in which the policy is considered by the company to have been lost or destroyed.

(4.) The expenses of the advertisement and all other costs of the issue of a special policy shall be paid by the policy owner at the time of application.

(5.) The fact of the issue of a special policy, with the reason for its issue, shall be recorded by the company in the appropriate register of policies.

(6.) Every special policy shall be valid and available for all purposes for which the policy for which it has been issued in substitution would have been valid and available, and after the issue of the special policy, the policy for which it has been issued in substitution shall be void.

(7.) If the company fails to issue a special policy within six months after receipt of application in writing from the policy owner, the Court, or the Supreme Court or a County Court, District Court or Local Court of Full Jurisdiction of a State or Territory, may, upon application by summons, and upon such evidence as to the loss or

destruction of the policy as the court deems sufficient, order the company, upon such terms and within such time as the court thinks fit, to issue a special policy.

(8.) If the owner of a special policy claims that the policy is lost or has been destroyed, the provisions of this section shall apply as if the special policy were an original policy issued by the company.

120. A policy shall not be avoided merely on the ground that the person whose life is insured died by his own hand or act, sane or insane, or suffered capital punishment, if, upon the true construction of the policy, the company has thereby agreed to pay the sum insured in the events that have happened.

Effect of suicide or capital punishment on policy.

N.S.W. 1938, s. 2.
V. 4600, s. 2.
S.A., s. 72A.

Condition as to war risk void.

121. Any term or condition of a policy issued after the commencement of this Act which limits, to an amount less than the sum insured, the amount payable under the policy in the event of the death of the life insured occurring on war service, shall not have any force or effect, unless the person who effected the policy agreed in writing to the insertion in the policy of that term or condition.

122. Failure on the part of a company to comply with any provision of this Act shall not in any way invalidate any policy issued by the company.

Offences by company not to invalidate policies.

PART V.—PROVISIONS RELATING TO INDUSTRIAL INSURANCE BUSINESS.

123.—(1.) If, within twenty-eight days after the delivery of an industrial policy by a company to the policy owner or, at the place of abode of the policy owner, to some other person who is an inmate of that place apparently not less than sixteen years of age and by whom any premium in respect of the policy is paid on behalf of the policy owner, the policy owner returns the policy to the company with an objection in writing to any term or condition of the policy, the company shall forthwith refund any premium which has been paid in respect of the policy which shall thereupon be cancelled.

Objection to policies.

V. 4773, s. 8.

(2.) Where an industrial policy is sent by post by a company to the person to whom it is issued, it shall, unless the contrary is proved, be deemed to have been delivered to him at the time at which it would reach him in the ordinary course of post.

(3.) For the purposes of this section, a policy shall be deemed to have been returned to a company with an objection if the policy and the writing specifying the objection are posted for transmission to the company by registered letter.

124. If at any time a company which carries on industrial insurance business, or any person authorized by such a company, takes possession of an industrial policy or premium receipt book or other document issued in connexion with the policy, a receipt for the policy, book or document shall be given to the person from whom it was received, and the policy, book or document shall be returned

Receipt of industrial policies and premium receipt books after inspection.

Imp. Act 1923, s. 22.
V. 4773, s. 7.

to the owner of the policy on demand at any time after the expiration of twenty-eight days, unless—

- (a) it is required for the purposes of evidence in legal proceedings ;
- (b) the policy has been terminated by reason of the satisfaction of all claims capable of arising under it ; or
- (c) in the case of a policy, the company is entitled to retain the policy as security for money owing to the company by the policy owner.

Penalties for
falsifications.
Of. 13 & 14,
Geo. 5, c. 3,
s. 40.

125. If any person wilfully makes, or orders or allows to be made, any entry or erasure in, or omits any entry, or orders or allows any entry to be omitted, from, a collecting book or premium receipt book, with intent to falsify the book, or to evade any of the provisions of this Act, he shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for three months.

As to
avoidance
of policy by
reason of
particulars in
proposal
written or
filled in by
agent or
servant of
company.
Imp. Act 1923,
s. 20 (4).
V. 4778, s. 2.

126.—(1.) Where any agent or servant of a company writes or fills in or has before the commencement of this Act written or filled in any particulars in a proposal for an industrial policy with the company, then, notwithstanding any agreement to the contrary between the proponent and the company, any policy issued in pursuance of the proposal shall not be avoided by reason only of any incorrect or untrue statement contained in any such particulars so written or filled in unless the incorrect or untrue statement was in fact made by the proponent to the agent or servant for the purposes of the proposal.

(2.) The burden of proving that any such statement was so made shall lie upon the company.

(3.) Nothing in this section shall be deemed to allow of the avoidance of any policy for any reason or in any circumstances for or in which the policy could not have been avoided apart from the provisions of this section.

Particulars to
be set forth
in policies.
V. 4778, s. 4.

127.—(1.) Every industrial policy issued by a company after the commencement of this section shall contain an endorsement in distinctive type setting forth—

- (a) whether the policy is or is not a participating policy ; and
- (b) a short statement in a form approved by the Commissioner as to—
 - (i) the right of the policy owner to be granted a paid-up policy ;
 - (ii) the right of the policy owner to surrender his policy and to receive in cash the surrender value of the policy ; and
 - (iii) the forfeiture of the policy.

(2.) This section shall come into operation on a day (not being less than six months or more than twelve months after the commencement of this Act) to be fixed by Proclamation.

128.—(1.) A company shall, in respect of each industrial policy issued by the company, issue to the policy owner a premium receipt book in conformity with the provisions of this section—

Issue of
premium
receipt books
V. 4778, s. 6.

- (a) where the policy was issued before or is issued within the period of twelve months next after the commencement of this Act—before the expiration of that period of twelve months; or
- (b) where the policy is issued after the expiration of that period of twelve months—at the time of the issue of the policy:

Provided that the company may, if the policy owners concerned do not object—

- (i) issue one premium receipt book in respect of two or more policies if held by the same policy owner or by two or more policy owners who are members of the same household; or
- (ii) add the endorsements and entries required by this section in respect of any policy to the premium receipt book issued in respect of any earlier policy held by the same policy owner or by a member of the same household.

(2.) After the expiration of the period of twelve months next after the commencement of this Act a company shall not issue or permit to be used one premium receipt book in respect of two or more policies held by different policy owners not members of the same household.

(3.) Any premium receipt book issued to a policy owner by a company, whether before or after the commencement of this Act, shall, if it conforms to the provisions of this section or if it is amended to conform with those provisions and returned to the policy owner within the period of twelve months next after the commencement of this Act, be deemed to be a premium receipt book issued in accordance with the provisions of this section.

(4.) Every premium receipt book issued by a company shall contain in respect of each policy to which it relates—

- (a) an endorsement in distinctive type of the particulars referred to in paragraphs (a) and (b) of sub-section (1.) of the last preceding section;
- (b) an entry made by the company of the following matters :—
 - (i) The surname and initials of the policy owner and, where the policy is issued in respect of the life of a person other than the policy owner, the surname and initials of that person;
 - (ii) The date and number of the policy; and
 - (iii) The amount of the weekly or other periodical premium; and
- (c) a notice stating that proof of age may be required prior to payment of the sum insured.

129.—(1.) Every payment in respect of premiums under an industrial policy made to an agent or servant of the company shall be recorded by the agent or servant in the premium receipt book so as clearly to indicate the date to which premiums have been paid in respect of the policy or policies to which the premium receipt book relates, and the record shall be signed by the agent or servant with his usual signature.

Premium
receipt book
to show date
to which
premiums
paid, &c.
Ibid. s. 6.

(2.) Where a premium receipt book relates to more than one policy and any payment for premiums on the policies is made which is less than the aggregate of the weekly or other periodical premiums in respect of all those policies, the person making the payment shall be required by the agent or servant of the company to whom the payment is made to state the policy or policies in respect of which no payment or an insufficient payment is made, and the agent or servant shall clearly record in the premium receipt book the fact stated, and unless, before any further premiums are paid, the amount of the deficiency is paid, the company shall cause a separate premium receipt book in conformity with the provisions of the last preceding section to be issued in respect of any policy in relation to which the deficiency exists and shall cause the particulars and entry in the first-mentioned premium receipt book relating to any such policy to be cancelled.

Guarantor not to be liable to refund commissions on lapsed policies.

V. 4778, s. 9.

Production of company's certificate as to agent's or guarantor's indebtedness not to be conclusive evidence thereof.

Ibid. s. 10.

130. Any provision in any agreement (whether made before or after the commencement of this Act) whereby the guarantor of an agent of any company is or may be required to pay to the company the amount of any commissions repayable by the agent on account of lapsed industrial policies shall be void.

131.—(1.) Any provision in any agreement made after the commencement of this Act whereby the production in any legal proceedings of a certificate signed by an officer or servant of the company may be deemed to be conclusive evidence of the indebtedness or the amount of the indebtedness to the company of any agent or of any guarantor of an agent shall be void.

(2.) Any such provision in any agreement made before the commencement of this Act shall be read and construed so as to make the certificate to which the provision relates *prima facie* evidence only of the indebtedness or the amount of the indebtedness to which it refers.

Establishment of Commonwealth Government Insurance Office.
Incorporation.

PART VI.—COMMONWEALTH GOVERNMENT INSURANCE OFFICE.

132. The Governor-General may establish an insurance office to be known as the Commonwealth Government Insurance Office.

133.—(1.) The Commonwealth Government Insurance Office shall be a body corporate with perpetual succession and a common seal, and may hold land, and may sue and be sued, in its corporate name.

(2.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commonwealth Government Insurance Office affixed to any document or notice and shall deem that it was duly affixed.

Management and operations.

134.—(1.) The Commonwealth Government Insurance Office—

- (a) may carry on life insurance business and such other kinds of insurance business as are prescribed ;
- (b) shall develop and expand the business carried on by it ; and
- (c) in relation to its management and operations and the carrying on of its business—
 - (i) shall have and may exercise such powers ;

- (ii) shall have and perform such duties ; and
- (iii) shall have such privileges, rights and remedies,

as are prescribed.

(2.) The management, operations and business of the Commonwealth Government Insurance Office shall, subject to this Part, be carried on in accordance with such regulations, in relation to those matters or any of them, as are made under this Act.

(3.) The Commissioner shall not be an officer of the Commonwealth Government Insurance Office.

135.—(1.) There shall be established under section sixty-two A of the *Audit Act* 1901–1934 such Trust Accounts as are necessary for the purposes of the Commonwealth Government Insurance Office. Finance.

(2.) There may be paid to the credit of any such Trust Account such moneys as are prescribed.

136. Every policy of insurance issued by the Commonwealth Government Insurance Office shall, by virtue of this section, be guaranteed by the Commonwealth. Guarantee by Commonwealth.

137.—(1.) Subject to this section, the Commonwealth Government Insurance Office shall not be liable to pay taxes imposed by or under any law of the Commonwealth or of any State or Territory, but that Office shall pay to the Treasurer such sums as are determined by the Treasurer to be equivalent to the amount of the taxes which it would be liable to pay if it were a company. Taxation.

(2.) The Commonwealth Government Insurance Office shall be liable to pay such stamp duties imposed by or under any law of the Commonwealth or of any State or Territory as it would be liable to pay if it were a company.

(3.) The Commonwealth Government Insurance Office shall be liable to make such contributions as it would be liable, if it were a company, to make under any law of any State or Territory relating to fire brigades.

138. The provisions of this Act except those relating to the registration of companies, the judicial management of companies and the winding-up of companies and except such other provisions as are prescribed, shall apply with such alterations as are necessary to and in relation to the Commonwealth Government Insurance Office in like manner as if it were a company. Provisions of Act to apply to Commonwealth Government Insurance Office.

PART VII.—MISCELLANEOUS.

139.—(1.) A person shall not publish in respect of any company or in respect of a company proposed to be formed after the commencement of this Act a prospectus, notice, circular, advertisement or other invitation offering to the public for subscription any shares in the company or proposed company, unless the prospectus, notice, circular, advertisement or other invitation is first submitted to and approved by the Commissioner. Issue of capital by companies

(2.) A person acting as promoter of any such proposed company shall not accept any office of profit in the company or any payment or pecuniary advantage other than as provided in any such prospectus, notice, circular, advertisement or other invitation.

Voting by post.

140.—(1.) Notwithstanding anything contained in the instruments constituting, or in the articles of association or other rules of, any company not having shareholders, the company shall, within one year after the commencement of this Act, make arrangements for—

- (a) the establishment of a postal voters' roll in relation to voting in contested elections of directors of the company or on questions as to the alteration of the instruments constituting the company or of the articles of association or other rules of the company ;
- (b) the enrolment on the postal voters' roll of any member of the company entitled to vote in such elections or on such questions who applies to be so enrolled ;
- (c) the voting by post in any such election or on any such question by every member so enrolled ; and
- (d) the making of inspections of the postal voters' roll and the taking of copies of, or extracts from, the roll, on and after the close of nominations and before the close of the voting in any such election, by any person nominated for election as a director of the company,

and all regular votes of members given in pursuance of any such arrangements shall be valid and effectual for all purposes.

(2.) Where a member of a company enrolled on the postal voters' roll of the company fails to exercise his right to vote by post on three consecutive occasions on which he is entitled so to vote, the company may remove his name from the roll, but the member shall be eligible for re-enrolment.

Inspection of documents.

Cf. 9 Ed. 7,
c. 49, s. 20 ;
Q. 1901, No. 20,
s. 48.

141. Any person may, upon payment of such fee as is prescribed, inspect at an office of the Commissioner any document furnished to the Commissioner under sub-section (2.) of section fifty-two of this Act, and make a copy of, or extract from, the document.

Documents to be received in evidence.

Cf. 9 Ed. 7,
c. 49, s. 21 ;
Q. 1901, No. 20,
s. 49.

142. Every document purporting to be certified by the Commissioner to be a document lodged with him under the provisions of this Act, and every document purporting to be similarly certified to be a copy of such a document, shall be deemed to be such a document or copy, as the case may be, and shall be received in evidence as if it were the original document, unless some variation between it and the original document is proved.

Publication of authorized, subscribed and paid-up capital.

Cf. 9 Ed. 7,
c. 49, s. 12.

Modification of Schedules.

V. 4602, s. 534.
Q., s. 14.
S.A., s. 51.
W.A., s. 22.
T., s. 20.

143. Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorized capital of the company, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid-up.

144.—(1.) The Commissioner may, in relation to any company, approve of the use of any of the forms in, or the application of any of the provisions of, any of the first three Schedules, with such

modifications as he thinks fit, provided he is satisfied that, notwithstanding the modifications, the purpose of those Schedules will be substantially fulfilled.

(2.) Where a company is incorporated outside Australia but within the British dominions, and renders actuarial abstracts and statements of its business to the Board of Trade in England in pursuance of any Imperial Act, the company may furnish copies of those documents to the Commissioner in lieu of the abstracts and statements required to be furnished under section fifty-two of this Act :

S.A., s. 60.
W.A., s. 21.
T., s. 19.

Provided that the company shall, at the same time as it furnishes copies of those documents, furnish to the Commissioner a statement showing, in accordance with a method approved by the Commissioner, the net liabilities of the company under its policies on Australian registers as at the valuation date to which those documents relate.

145.—(1.) The Commissioner shall collect at such times as are prescribed such statistics in relation to life insurance business as are prescribed.

Power to collect statistics.

(2.) For the purpose of enabling the Commissioner to collect statistics under this section every company shall furnish to the Commissioner in accordance with the prescribed form and at such times as are prescribed such particulars as are specified in that form.

(3.) The Commissioner may supply to such officers of the Commonwealth or of a State or of an authority of the Commonwealth or of a State as are prescribed any statistics collected under this section.

(4.) Subject to the last preceding sub-section, a person shall not publish, in such a form as to disclose the particulars furnished by any individual company, any particulars furnished to the Commissioner under this section.

146. Where any notice is required by this Act to be served upon any person, the notice shall be in writing, and shall be served upon him either personally or by being sent by post addressed to him at his usual or last known place of abode or business, and any notice so addressed and sent shall be deemed to be notice to that person.

Service of notices.
N.Z., s. 82.

147. Any document required by or under this Act to be signed by the principal officer of a company may be signed by any other officer of the company, if that officer is thereto authorized by the principal officer and the principal officer has notified the Commissioner in writing of the authorization.

Authority by principal officer of company.

148.—(1.) Any company which contravenes or fails to comply with—

Offences.

- (a) any provision of this Act ;
- (b) any provision of any order or regulation made under this Act ; or
- (c) any direction or requirement given or made by the Commissioner or a person appointed under section fifty-five of this Act.

shall be guilty of an offence against this Act, and, in the case of a default in complying with any such provision, direction or requirement, the offence shall be deemed to be continued so long as the default continues.

(2.) Where an offence against this Act is committed by a company and the offence is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, principal officer, or other officer or an actuary or auditor of the company, he, as well as the company, shall be deemed to be guilty of the offence.

(3.) If any document required by or under this Act to be signed by any person is false in any particular to the knowledge of any such person who signs it; that person shall be guilty of an offence.

(4.) Notwithstanding any limitation on the time for the taking of proceedings which is contained in any Act, summary proceedings for offences against this Act may be commenced at any time within one year from the date on which there comes to the knowledge of the Commissioner evidence, sufficient in his opinion to justify a prosecution for the offence :

Provided that no such proceedings shall be commenced after the expiration of three years from the commission of the offence.

(5.) For the purposes of the last preceding sub-section, a certificate purporting to be signed by the Commissioner, as to the date on which that evidence came to his knowledge shall, in any such summary proceedings, be evidence of that date.

(6.) Any proceedings against a company for an offence against this Act shall be without prejudice to any proceedings for the judicial management, or the winding-up, of the company or of any part of the business of the company which may be taken in respect of the matter constituting the offence.

Penalties.

149. All offences against this Act for which no other penalty is prescribed shall be punishable, in the case of a company, by a fine not exceeding One thousand pounds and, in the case of an individual, by a fine not exceeding One hundred pounds or imprisonment for a period not exceeding six months.

Regulations.

150. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act and in particular—

- (a) for prescribing the time within which any appeal to the Court provided for by this Act will lie ;
- (b) for the repeal or alteration of, or addition to, any form in or any provision of any of the first three Schedules ; and
- (c) for prescribing penalties not exceeding Fifty pounds for any breach or contravention of the regulations.

THE SCHEDULES.

Section 44.

THE FIRST SCHEDULE.

Form A.

Revenue Account of the [name of Company] for the year ended [date] in respect of [name of Statutory Fund].

| Particulars. | Business in Australia. | | | Business outside Australia. | | | Total. | | |
|--|------------------------|----|----|-----------------------------|----|----|--------|----|----|
| | £ | s. | d. | £ | s. | d. | £ | s. | d. |
| Amount of Statutory Fund at beginning of year .. | — | — | — | — | — | — | — | — | — |
| Insurance Premiums | — | — | — | — | — | — | — | — | — |
| Single Premiums | — | — | — | — | — | — | — | — | — |
| Other Premiums | — | — | — | — | — | — | — | — | — |
| Consideration for annuities granted | — | — | — | — | — | — | — | — | — |
| Single Premiums | — | — | — | — | — | — | — | — | — |
| Other Premiums | — | — | — | — | — | — | — | — | — |
| Interest, dividends and rents | £ | | | | | | | | |
| Less: Rates and taxes thereon | £ | | | | | | | | |
| (Other income (to be specified) | | | | | | | | | |
| Total | | | | | | | | | |
| Claims under policies, paid and outstanding .. | | | | | | | | | |
| By death and disability | | | | | | | | | |
| By maturity | | | | | | | | | |
| Surrenders (including surrenders of bonus) .. | | | | | | | | | |
| Annuities | | | | | | | | | |
| Bonuses in Cash | | | | | | | | | |
| Commissions | | | | | | | | | |
| Expenses of Management (other than Commissions) — | | | | | | | | | |
| Salaries | | | | | | | | | |
| Directors' Fees | | | | | | | | | |
| Auditors' Fees | | | | | | | | | |
| Medical Fees | | | | | | | | | |
| Legal Expenses | | | | | | | | | |
| Office Rent | | | | | | | | | |
| Advertising | | | | | | | | | |
| Printing and Stationery | | | | | | | | | |
| Postage | | | | | | | | | |
| Travelling Expenses | | | | | | | | | |
| General Expenses | | | | | | | | | |
| Other Expenses (to be specified) | | | | | | | | | |
| Contributions to Staff Superannuation Fund .. | | | | | | | | | |
| Taxes (other than those charged on interest, dividends and rents) | | | | | | | | | |
| Shareholders' Dividends | | | | | | | | | |
| Other Expenditure (to be specified) | | | | | | | | | |
| Amount of Statutory Fund at end of year, as shown in the Balance-sheet | | | | | | | | | |
| Total | | | | | | | | | |

NOTE 1.—If any sum has been deducted from an expenses of management item, and entered on the assets side of the Balance-sheet, the amount so deducted shall be shown separately.

NOTE 2.—Amounts shown in this Account shall be net amounts after deduction of sums paid or received in respect of reinsurance of the risks of the company.

NOTE 3.—The columns headed "Business in Australia" apply to income and expenditure relating to policies registered by the company in Australia.

NOTE 4.—Where any statutory fund is maintained in respect of both ordinary life insurance business and industrial insurance business, a separate revenue account in accordance with the above form shall be prepared separately for each of those businesses.

1945.

Life Insurance.

No. 28.

Section 44.

THE FIRST SCHEDULE—continued.

Form B.

Revenue Account of the [name of Company] for the year ended [date] in respect of [type of insurance, other than life insurance, business].

| Particulars. | | Particulars. | |
|---|---------|---|---------|
| | £ s. d. | | £ s. d. |
| Balance of Account at beginning of year | | Claims under insurance contracts, paid and outstanding, including medical and legal expenses directly incurred in settling claims | |
| Reserve for Unexpired Risks £..... | | Commissions | |
| Additional Reserve (if any) £..... | | Expenses of Management (other than Commissions)— | £ s. d. |
| Premiums | | Salaries | |
| Interest, dividends and rents £..... | | Directors' Fees | |
| Less: Rates and taxes thereon £..... | | Auditors' Fees | |
| Other Income (to be specified) | | Medical Fees | |
| | | Legal Expenses | |
| | | Office Rent | |
| | | Advertising | |
| | | Printing and Stationery | |
| | | Postage | |
| | | Travelling Expenses | |
| | | General Expenses | |
| | | Other Expenses (to be specified) | |
| | | Contributions to Staff Superannuation Fund | |
| | | Taxes (other than those charged on interest, dividends and rents) | |
| | | Shareholders' Dividends | |
| | | Other Expenditure (to be specified) | |
| | | Balance of Account at end of year, as shown in the Balance-sheet | |
| | | Reserve for Unexpired Risks £..... | |
| | | Additional Reserve (if any) £..... | |
| Total | | Total | |

NOTE 1.—If any sum has been deducted from an expenses of management item, and entered on the assets side of the Balance-sheet, the amount so deducted shall be shown separately.

NOTE 2.—Amounts shown in this Account shall be net amounts after deduction of sums paid or received in respect of reinsurance of the risks of the company.

Section 44.

THE FIRST SCHEDULE—continued.

Form C.

Profit and Loss Account of the [*name of Company*] for the year ended [*date*].

| | £ | s. | d. | | £ | s. | d. |
|---|---|----|----|---|---|----|----|
| Balance brought forward at beginning of year | | | | Dividends paid to shareholders, not charged to other accounts | | | |
| Interest, dividends and rents not carried to other accounts .. | | | | Expenses, not charged to other accounts (to be specified) .. | | | |
| Profits transferred from Revenue and other accounts (to be specified) | | | | Transfers to Revenue and other accounts (to be specified) .. | | | |
| Other Income (to be specified) | | | | Balance at end of year, as shown in the Balance-sheet .. | | | |

NOTE 1.—If any sum has been deducted from the Expenses item, and entered on the assets side of the Balance-sheet, the amount so deducted shall be shown separately.

NOTE 2.—Where this account includes any amounts of dividends or other payments to shareholders, the financial year in respect of which those dividends or other payments are made, shall also be stated

Section 44.

THE FIRST SCHEDULE—continued.
Balance-sheet of [name of Company] as at [date].

Form D.

No 28.

Life Insurance.

1945.

| Liabilities | Life Insurance Business. | Other Classes of Business. | Total. | Assets. | Life Insurance Business. | Other Classes of Business. | Total. | Amount of Total Assets which are held in Australia. |
|---|--------------------------|----------------------------|---------|---|--------------------------|----------------------------|---------|---|
| | £ s. d. | £ s. d. | £ s. d. | | £ s. d. | £ s. d. | £ s. d. | £ s. d. |
| Shareholders' Capital— | £ | | | Fixed Assets (at cost less depreciation) . . . | | | | |
| Authorized | | | | Office Premises | | | | |
| Less Unissued | | | | Other freehold and leasehold property | | | | |
| Subscribed Capital | | | | Other furniture, fittings and equipment, and motor vehicles | | | | |
| Paid up— | | | | | | | | |
| In Money | — | | | Loans— | | | | |
| Otherwise than in Money | — | | | On Mortgage | | | | |
| | — | | | On debentures or shares | | | | |
| Life Insurance Statutory Funds, including Reserve Accounts (to be specified separately) | | — | | On policies of the company, including advances of premiums | | | | |
| Funds and Accounts (to be specified) in respect of other classes of business | — | | | On life interests and reversions | | | | |
| Profit and Loss Account Balance | — | | | On personal security | | | | |
| | | | | To controlled companies | | | | |
| | | | | Other loans (to be specified) | | | | |
| Other Liabilities— | | | | | | | | |
| Deposits | — | | | Investments— | | | | |
| Claims admitted or intimated but not paid* | | — | | Government Securities— | | | | |
| Annuities due and unpaid* | | | | Australia | | | | |
| Sundry Creditors | | | | New Zealand | | | | |
| Other liabilities (to be specified) | | | | Great Britain | | | | |
| | | | | Other parts of British Dominions | | | | |
| | | | | Foreign | | | | |
| | | | | Securities of Local Government and semi-governmental bodies | | | | |
| | | | | Debentures | | | | |
| | | | | Preference Shares | | | | |
| | | | | Ordinary Shares | | | | |
| | | | | Holdings in Controlled Companies | | | | |
| | | | | Life interests and reversions purchased | | | | |
| | | | | Other investments (to be specified) | | | | |
| | | | | | | | | |

Form D--continued.

| Liabilities. | Life Insurance Business. | Other Classes of Business. | Total. | Assets. | Life Insurance Business. | Other Classes of Business. | Total. | Amount of Total Assets which are held in Australia. |
|-------------------------|--------------------------|----------------------------|---------|---|--------------------------|----------------------------|---------|---|
| | £ s. d. | £ s. d. | £ s. d. | | £ s. d. | £ s. d. | £ s. d. | £ s. d. |
| | | | | Other Assets— | | | | |
| | | | | Outstanding premiums* | | | | |
| | | | | Interest, dividends and rents accruing but not due* | | | | |
| | | | | Outstanding interest, dividends and rents* | | | | |
| | | | | Sundry Debtors | | | | |
| | | | | (Other Assets (to be specified) | | | | |
| | | | | | | | | |
| | | | | Cash— | | | | |
| | | | | On Deposit | | | | |
| | | | | On Current Account and in hand | | | | |
| | | | | | | | | |
| Total Liabilities | | | | Total Assets | | | | |

NOTE 1.—Where a company maintains more than one statutory fund in respect of its life insurance business, the amounts of the items in the above balance-sheet shall be shown in separate columns in respect of each statutory fund, in lieu of combining those amounts in the columns headed "Life Insurance Business".

NOTE 2.—Where any statutory fund is maintained in respect of both ordinary life insurance business and industrial insurance business, the amounts of that fund which are derived from each of those businesses shall be shown separately.

NOTE 3.—Assets and Liabilities not allocated to any class of life insurance business, and Shareholders Capital and Reserves, must be shown in the columns headed "Other Classes of Business".

NOTE 4.—A footnote to the balance-sheet shall state what parts of the assets of the company have been deposited in Australia or elsewhere, as security for policy owners, specifying in each case the amount of the deposit, the type of security deposited, and the statutory fund, if any, of which that deposit or any portion of that deposit forms part.

NOTE 5.—Full particulars shall be stated of holdings in, and loans to, controlled companies (whether they transact life insurance business, or not), giving the name of each such company, the number, description, and amounts paid up on the shares held in each, and the value at which the holdings in each such company stand in the balance-sheet. A company shall be regarded as a controlled company if the company, in respect of which this Balance-sheet is prepared, has the power directly or indirectly to exercise decisive influence over its policy or management.

NOTE 6.—Amounts due from directors and officers of the company, unless fully secured, must be shown separately.

NOTE 7.—Items marked * are, or have been, included in the corresponding items in the Revenue Accounts.

NOTE 8.—The currency in which the Balance-sheet is made up, and the basis of conversion of other currencies into that currency, shall be stated.

NOTE 9.—The persons signing the Balance-sheet shall also sign an appended statement showing how the values of the investments are arrived at, and a certificate to the effect that, in their belief, the assets set forth in the Balance-sheet are in the aggregate fully of the value stated in the Balance-sheet, less any investment reserve fund taken into account.

NOTE 10.—A certificate shall be appended, signed by the same persons as signed the Balance-sheet and by the auditors, to the effect that no part of the assets of any statutory fund has been applied, directly or indirectly, in contravention of the provisions of this Act relating to the application and investment of statutory funds.

Section 51

THE FIRST SCHEDULE—continued.

FORM E.

New policies issued by [name of Company] during the year ended [date.]

| Type of Policy. | In Australia. | | | | Outside Australia. | | | |
|-------------------------------|---------------------|--------------|------------------|------------------|---------------------|--------------|------------------|------------------|
| | Number of Policies. | Sum Insured. | Single Premiums. | Annual Premiums. | Number of Policies. | Sum Insured. | Single Premiums. | Annual Premiums. |
| | | £ | £ | £ | | £ | £ | £ |
| Whole Life Insurances | | | | | | | | |
| Endowment Insurances | | | | | | | | |
| Other Insurances | | | | | | | | |
| Endowments | | | | | | | | |
| Annuities | | (per annum) | | | | (per annum) | | |
| Total | | | | | | | | |

NOTE 1.—Separate returns shall be rendered for ordinary life insurance business and industrial insurance business.

NOTE 2.—Items in this return shall be shown after deduction of amounts in respect of re-insurances of the risks of the company.

Section 51

THE FIRST SCHEDULE—continued

FORM F.

Policies of [name of Company] discontinued during the year ended [date].

| Cause of Discontinuance. | Policies on Registers in Australia. | | | Policies on Registers outside Australia. | | |
|---------------------------------------|-------------------------------------|--------------|------------------|--|--------------|------------------|
| | Number of Policies. | Sum Insured. | Annual Premiums. | Number of Policies. | Sum Insured. | Annual Premiums. |
| | | £ | £ | | £ | £ |
| Insurance and Endowment Policies— | | | | | | |
| Death | | | | | | |
| Maturity | | | | | | |
| Surrender | | | | | | |
| Forfeiture | | | | | | |
| Transfer | | | | | | |
| Other Causes | | | | | | |
| Annuity Policies (All causes) | | (per annum) | | | (per annum) | |
| Total | | | | | | |

NOTE 1.—Separate returns shall be rendered for ordinary life insurance business and industrial insurance business.
 NOTE 2.—Items in this return shall be shown after deduction of amounts in respect of reinsurance of the risks of the company.
 NOTE 3.—Items in this return shall be shown exclusive of bonus additions.
 NOTE 4.—Items on the line entitled "Transfer" shall be the net loss or gain to the appropriate registers resulting from transfers between various registers during the year.

Section 51.

THE FIRST SCHEDULE—continued.

FORM G.

Policies of [name of Company] existing on [date]

| Type of Policy. | Policies on Registers in Australia. | | | Policies on Registers outside Australia. | | |
|--------------------------|-------------------------------------|--------------|------------------|--|--------------|------------------|
| | Number of Policies. | Sum Insured. | Annual Premiums. | Number of Policies. | Sum Insured. | Annual Premiums. |
| Whole Life Insurances .. | | £ | £ | | £ | £ |
| Endowment Insurances .. | | | | | | |
| Other Insurances .. | | | | | | |
| Endowments | | | | | | |
| Annuities | | (per annum) | | | (per annum) | |
| Total | | | | | | |

NOTE 1.—Separate returns shall be rendered for ordinary life insurance business and industrial insurance business.

NOTE 2.—Items in this return shall be shown after deduction of amounts in respect of reinsurances of the risks of the company.

THE SECOND SCHEDULE.

Section 48.

PROVISIONS RELATING TO THE PREPARATION OF ABSTRACTS OF ACTUARY'S REPORTS.

PART I.

Regulations.

1. Abstracts shall be so arranged that the numbers and letters of the items correspond with those of the items of Part II. of this Schedule.

2. Where any table of mortality or sickness used in a valuation is not a published table, then for the purpose of complying with item (3.) of Part II. of this Schedule, specimen policy values shall be given at the rate of interest employed in the valuation in respect of whole life insurance policies effected at the respective ages of 20, 30, 40 and 50, and having been in force respectively for five years, ten years and upwards at intervals of ten years; and similar specimen policy values shall be given in respect of endowment insurance policies effected at the respective ages of 20, 30 and 40 for endowment terms of twenty and thirty years, and in the case of policies involving continuous disability benefits, specimens of the valuation factors must be given:

Provided that, where the specimen policy values or valuation factors required by this regulation to be given are the same as those given in any abstract prepared under Part II. of this Schedule previously submitted by the company to the Commissioner, it shall be sufficient in any abstract subsequently submitted to refer to the specimens so given in such manner as to enable the Commissioner to ascertain the required information.

3. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirements of item (4.) of Part II. of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

THE SECOND SCHEDULE—*continued.*

4.—(1) The average rate of interest earned in any year by the assets constituting a statutory fund shall, for the purposes of item (5.) of Part II. of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest, dividends and rents credited to the statutory fund during the year after deduction of rates and taxes (any refund of rates or taxes made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the statutory fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deducting from the aggregate of those two sums an amount equal to one-half of the interest of the year.

(2) It must be stated in what manner the sums invested in reversions and the income and profits derived from those reversions have been treated in calculating the average rate of interest.

5. Every abstract prepared in accordance with the requirements of Part II. of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes of the abstract and of the valuation data:

Provided that, if the actuary who signs the abstract is not a permanent officer of the company, the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of the company and the actuary shall insert in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

6. For the purposes of this Schedule—

“extra premium” means a charge for any risk not provided for in the minimum contract premium;

“inter-valuation period” means, in relation to any valuation in respect of any class of business, the period to the valuation date of that valuation from the valuation date of the last preceding valuation under this Act (if any) or, if there is no preceding valuation under this Act, from the valuation date of the last preceding valuation made in respect of that class of business or, in a case where no preceding valuation has been made in respect of that class of business, from the date on which the company began to carry on that class of business;

“maturity date” means the fixed date on which any benefit will become payable either absolutely or contingently;

“net premiums” means, in relation to any valuation, the premiums for which credit is taken in the valuation;

“premium term” means the period during which premiums are payable;

“valuation date” means, in relation to any valuation, the date as at which the valuation is made.

PART II.

Requirements as to Abstracts.

The following statements shall be annexed to every abstract prepared in accordance with the requirements of this Part:—

(a) a Consolidated Revenue Account, in accordance with Form H in this Schedule, for the inter-valuation period (except that it shall not be necessary to prepare such an account in respect of any class of business where the company lodges annually with the Commissioner an abstract in respect of that class of business);

(b) a Summary and Valuation, in accordance with Form I in this Schedule, of the policies included, at the valuation date, in the class of business to which the abstract relates; and

(c) a Valuation Balance-sheet, in accordance with Form J in this Schedule.

Every such abstract shall show—

(1.) the valuation date;

(2.) the general principles and full details of the methods adopted in the valuation of each of the various classes of insurance and annuities shown in Form I in this Schedule, including statements on the following matters:—

(a) whether the principles were determined by the instruments constituting the company or by its articles of association or other rules, or, if not, how the principles were determined;

THE SECOND SCHEDULE—*continued*.

- (b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity dates, have been treated for the purpose of the valuation ;
 - (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation ;
 - (d) the rate of bonus taken into account where, by the method of valuation, definite provision is made for the maintenance of a specific rate of bonus ;
 - (e) the method of allowing for—
 - (i) the incidence of the premium income ; and
 - (ii) premiums payable otherwise than annually ;
 - (f) the methods by which provision has been made for the following matters :—
 - (i) the immediate payment of claims ;
 - (ii) future expenses and profits in the case of limited payment policies and paid-up policies ;
 - (iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise ; and
 - (iv) payment of benefits or waiver of premiums during disability—
 - (A) in operation at the valuation date ; and
 - (B) not in operation at that date,
 and whether any reserves have been made for those matters ;
 - (g) whether under the valuation method adopted any policy would be treated as an asset, and what steps have been taken to eliminate any such asset from the valuation ;
 - (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with ; and
 - (i) the currency in which the valuation is made and the basis of conversion into that currency of the value of liabilities in other currencies ;
- (3.) the tables of mortality sickness and accident used, and the rate of interest assumed, in the valuation ;
- (4.) the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, separately specified in respect of insurances with immediate profits, with deferred profits, and without profits ;
- (5.) the average rates of interest earned by the assets constituting the relevant statutory fund for each of the five years preceding the valuation date ;
- (6.) the basis adopted in the distribution of surplus as between the company and policy owners, and whether that basis was determined by the instruments constituting the company, or by its articles of association or other rules, or, if not, how the basis was determined ;
- (7.) the general principles adopted in the distribution of surplus among policy owners, including statements on the following matters :—
- (a) whether the principles were determined by the instruments constituting the company, or by its articles of association or other rules, or, if not, how the principles were determined ;
 - (b) the number of years' premiums to be paid, period to elapse, and other conditions to be fulfilled, before a bonus is allotted ;
 - (c) whether the bonus is allotted in respect of each year's premiums paid, or in respect of each completed calendar year or year of insurance or, if not, how the bonus is allotted ; and
 - (d) whether the bonus vests immediately on allocation or, if not, the conditions of vesting ;

THE SECOND SCHEDULE—*continued.*

(8.) the total amount of surplus arising during the inter-valuation period including surplus paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of that surplus—

- (a) to interim bonus paid ;
- (b) among policy owners with immediate participation, giving the number of the policies which participated and the sums insured under the policies (excluding bonuses) ;
- (c) among policy owners with deferred participation, giving the number of the policies which participated and the sums insured under the policies (excluding bonuses) ;
- (d) among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated) ;
- (e) to every reserve fund, or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated) ; and
- (f) as carried forward unappropriated ;

(9.) specimens of bonuses allotted as at the valuation date to policies for One hundred pounds—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years and upwards at intervals of ten years ;
(Where different rates of bonus are allotted to policies under which the premiums are payable for a limited term only, similar specimen bonuses shall be shown for policies having premium terms of ten and twenty years respectively) ; and
- (b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years and effected at age 20 for an endowment term of forty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years ;

(10.) Where bonuses are allotted as reversionary additions to the sums insured under policies, a statement of the basis and conditions under which those bonuses may be surrendered for cash ; and

(11.) a statement of the value allowed for surrender of policies for One hundred pounds—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been respectively in force for five years, ten years and upwards at intervals of ten years ; and
- (b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years and effected at age 20 for an endowment term of forty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years.

THE SECOND SCHEDULE—continued.

PART III.

Forms.

FORM H.

Consolidated Revenue Account of the [name of Company] for the period of [number] years ended [date] in respect of [name of Statutory Fund].

| Particulars. | | | | | Particulars. | | | | |
|---|----|----|----|---------|--|----|----|---------|---------|
| | | | | £ s. d. | | | | | £ s. d. |
| Amount of Statutory Fund at beginning of period | .. | .. | .. | .. | Claims under policies, paid and outstanding | .. | .. | .. | .. |
| Insurance Premiums | .. | .. | .. | .. | By death and disability £ | .. | .. | .. | .. |
| Single Premiums £ | .. | .. | .. | .. | By maturity £ | .. | .. | .. | .. |
| Other Premiums £ | .. | .. | .. | .. | Surrenders (including Surrenders of Bonuses) | .. | .. | .. | .. |
| Consideration for annuities granted | .. | .. | .. | .. | Annuities | .. | .. | .. | .. |
| Single Premiums £ | .. | .. | .. | .. | Bonuses in Cash | .. | .. | .. | .. |
| Other Premiums £ | .. | .. | .. | .. | Commissions | .. | .. | .. | .. |
| Interest, dividends and rents | .. | .. | .. | £ | Expenses of Management (other than Commissions)— | .. | .. | £ s. d. | .. |
| Less: Rates and taxes thereon | .. | .. | .. | £ | Salaries | .. | .. | .. | .. |
| Other Income (to be specified) | .. | .. | .. | .. | Directors' Fees | .. | .. | .. | .. |
| | | | | | Auditors' Fees | .. | .. | .. | .. |
| | | | | | Medical Fees | .. | .. | .. | .. |
| | | | | | Legal Expenses | .. | .. | .. | .. |
| | | | | | Office Rent | .. | .. | .. | .. |
| | | | | | Advertising | .. | .. | .. | .. |
| | | | | | Printing and Stationery | .. | .. | .. | .. |
| | | | | | Postage | .. | .. | .. | .. |
| | | | | | Travelling Expenses | .. | .. | .. | .. |
| | | | | | General Expenses | .. | .. | .. | .. |
| | | | | | Other Expenses (to be specified) | .. | .. | .. | .. |
| | | | | | Contributions to Staff Superannuation Fund | .. | .. | .. | .. |
| | | | | | Taxes (other than those charged on interest, dividends and rents) | .. | .. | .. | .. |
| | | | | | Shareholders' Dividends | .. | .. | .. | .. |
| | | | | | Other Expenditure (to be specified) | .. | .. | .. | .. |
| | | | | | Amount of Statutory Fund at end of period, as shown in the Balance-sheet | .. | .. | .. | .. |
| Total | .. | .. | .. | .. | Total | .. | .. | .. | .. |

NOTE 1.—If any sum has been deducted from an expenses of management item, and entered on the assets side of the Balance-sheet, the amount so deducted shall be shown separately.

NOTE 2.—Amounts shown in this Account shall be net amounts after deduction of sums paid or received in respect of reinsurances of the risks of the company.

NOTE 3.—Where any statutory fund is maintained in respect of both ordinary life insurance business and industrial insurance business, a separate revenue account in accordance with the above form shall be prepared separately for each of those businesses.

No. 28.

Life Insurance.

1945.

THE SECOND SCHEDULE—continued. FORM I.
Summary and Valuation of the Policies of the [name of Company] at [date].

| Description of Transactions. | Particulars of the Policies for Valuation. | | | | | Valuation by Table. | | | |
|--|--|---------------|----------|-------------------------|----------------------|---------------------|----------|----------------------|----------------|
| | Number of Policies. | Sums Insured. | Bonuses. | Office Yearly Premiums. | Net Yearly Premiums. | Sums Insured. | Bonuses. | Net Yearly Premiums. | Net Liability. |
| INSURANCE POLICIES. | | | | | | | | | |
| <i>Group 1.—With immediate participation in profits.</i> | | | | | | | | | |
| For whole term of life .. | | | | | | | | | |
| Other classes (to be specified separately) .. | | | | | | | | | |
| Extra premiums .. | | | | | | | | | |
| Total insurances .. | | | | | | | | | |
| Deduct re-insurances .. | | | | | | | | | |
| Net insurances .. | | | | | | | | | |
| <i>Group 2.—With deferred participation in profits.</i> | | | | | | | | | |
| For whole term of life .. | | | | | | | | | |
| Other classes (to be specified separately) .. | | | | | | | | | |
| Extra premiums .. | | | | | | | | | |
| Total insurances .. | | | | | | | | | |
| Deduct re-insurances .. | | | | | | | | | |
| Net insurances .. | | | | | | | | | |
| Total net insurances with profits .. | | | | | | | | | |
| <i>Group 3.—Without participation in profits.</i> | | | | | | | | | |
| For whole term of life .. | | | | | | | | | |
| Other classes (to be specified separately) .. | | | | | | | | | |
| Extra premiums .. | | | | | | | | | |
| Total insurances .. | | | | | | | | | |
| Deduct re-insurances .. | | | | | | | | | |
| Total net insurances without profits .. | | | | | | | | | |
| OTHER POLICIES. | | | | | | | | | |
| <i>Group 4.—Endowments.</i> | | | | | | | | | |
| Endowments on lives .. | | | | | | | | | |
| Other classes (to be specified separately) .. | | | | | | | | | |
| Total endowments .. | | | | | | | | | |
| Deduct re-insurances .. | | | | | | | | | |
| Total net endowments .. | | | | | | | | | |
| <i>Group 5.—Annuities.</i> | | | | | | | | | |
| Immediate annuities on lives .. | | | | | | | | | |
| Other classes (to be specified separately) .. | | | | | | | | | |
| Total annuities .. | | | | | | | | | |
| Deduct re-insurances .. | | | | | | | | | |
| Total net annuities .. | | | | | | | | | |
| Total of the results after deduction of re-insurances | | | | | | | | | |

NOTE 1.—Items in this Summary may be stated to the nearest pound.

NOTE 2.—Policies without participation in profits but with a guaranteed rate of bonus shall be shown separately in Group 3.

NOTE 3.—Where any adjustments have been made in the valuation, details of the adjustment shall be specified separately in respect of each group in this form.

NOTE 4.—Office and net premiums and the values of the latter shall be shown after abatements made by the application of bonus.

THE SECOND SCHEDULE—continued.

FORM J.

Valuation Balance-sheet of [name of Statutory Fund] of [name of Company] as at [date].

| | Ordinary life insurance business. | Industrial insurance business. | Total. | | Ordinary life insurance business. | Industrial insurance business. | Total. |
|---------------------------------|--|--------------------------------------|--------|----------------------------------|--|--------------------------------------|--------|
| | £ | £ | £ | | £ | £ | £ |
| Net liabilities under policies— | | | | Amount of Statutory Fund | | | |
| On Australian registers | | | | Deficiency (if any) | | | |
| Other policies | | | | | | | |
| Reserve Accounts | | | | | | | |
| Surplus (if any) | | | | | | | |
| | | | | | | | |

THE THIRD SCHEDULE.

Section 48.

PROVISIONS RELATING TO THE PREPARATION OF STATEMENTS OF LIFE INSURANCE BUSINESS.

PART I.

Regulations.

1. Statements prepared under this Schedule shall be prepared, so far as practicable, in tabular form and shall be identified by numbers and letters corresponding with those of the items of Part II. of this Schedule.

2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule shall be shown to the nearest pound.

3. Extra premiums where shown separately in Form I prepared under the Second Schedule to this Act shall not be included in statements prepared under this Schedule.

4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connexion with which it is prepared.

5. For the purposes of this Schedule—

“extra premiums” means a charge for any risk not provided for in the minimum contract premium;

“net premiums” means the premiums for which credit is taken in the valuation in connexion with which any statement is prepared;

“valuation date” means, in relation to any valuation, the date as at which the valuation is made.

7. Statements shall be prepared under this Schedule both for the total business before deduction in respect of re-insurances of the risks of the company, and for those re-insurances.

8. Where the rates of office premiums required to be shown in any statement prepared under this Schedule are the same as the rates shown in any statement previously so prepared and submitted to the Commissioner, it shall be sufficient to refer to the rates so shown in such manner as to enable the Commissioner to ascertain the required information.

PART II.

Requirements as to Statements.

The Statements required to be prepared under this Part are as follows:—

(1.) Statements as to policies issued in Australia, separately prepared in respect of policies with and without participation in profits, showing—

(a) in relation to policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive;

(b) in relation to endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for ages at entry 20, 30 and 40, but excluding policies under which the age at maturity exceeds 60;

(c) in relation to policies specified in the preceding provisions of this item under which a continuous disability benefit is granted, the office premiums for that benefit under new policies, and the conditions which must be fulfilled before a continuous disability benefit—

(i) is allowed;

(ii) ceases to be allowed; and

(d) in relation to sinking fund policies the rates of office premiums charged in accordance with the published tables in use for new policies with original terms of 10, 15, 20 and 30 years:

Provided that, in the case of industrial policies, there shall be shown, in lieu of the rates of office premiums charged as specified in the foregoing items, the sums insured by new policies, in accordance with the published tables in use, in return for fixed weekly and monthly office premiums and in addition the sums insured for ages at entry 1, 5, 10 and 15;

(2.) Statements, separately prepared in respect of policies with immediate profits, with deferred profits, and without profits, showing in quinquennial groups—

(a) in relation to policies on single lives for the whole term of life—

(i) the total amount insured (specifying sums insured and reversionary bonuses separately), grouped according to ages attained;

(ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained; and

THE THIRD SCHEDULE—*continued.*

- (iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, of the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation ;
- (b) in relation to endowment insurance policies on single lives—
 - (i) the total amount insured (specifying sums insured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation ; and
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of the valuation ;
- (c) in relation to policies specified in the preceding provisions of this item, under which a continuous disability benefit is granted—
 - (i) the total amount of continuous disability benefit insured under the policies, grouped in accordance with the grouping adopted for the purposes of the valuation ; and
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable (including premiums of which payment is, at the valuation date, suspended owing to disability arising from sickness or accident) and the corresponding net premiums, grouped according to the grouping adopted for the purposes of the valuations ; and
- (d) in relation to sinking fund policies (other than annuity policies)—
 - (i) the total amount insured (specifying sums insured and reversionary bonuses separately), grouped according to the number of complete years from the valuation date to the date of maturity of the policies ; and
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped according to the number of years' payments remaining to be made :

Provided that—

- (a) in relation to endowment insurance policies or sinking fund policies which will reach maturity in less than five years, and which are grouped for the purposes of the valuation according to the years in which the policies will mature for payment, the information required by sub-items (b) (i), (c) (i) and (d) (i) of this item shall be given for each year instead of in quinquennial groups ; and
 - (b) where the net premiums in respect of policies for the whole term of life with premiums payable for a limited number of years, or the net premiums in respect of endowment insurance policies, are grouped for the purposes of the valuation otherwise than according to the number of years' payments remaining to be made, or, where the sums insured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case, the valuation constants and an explanation of the method by which they are calculated shall be given for each group, and, in the case of the sums insured under endowment insurance policies, a statement shall also be given of the amount insured maturing for payment in each of the two years following the valuation date ;
- (3.) Statements in relation to immediate annuities on single lives for the whole term of life and annuities which were originally deferred but which have been entered upon before or on the valuation date, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of those annuities, grouped according to ages attained at the valuation date ;
- (4.) Statements in relation to deferred annuities which have not been entered upon before or on the valuation date, separately prepared in respect of annuities on male and female lives, showing in quinquennial groups—
- (a) the total amount of those annuities, grouped according to the number of years from the valuation date to the date the annuity is to be entered upon, and the average age (obtained by weighting according to the amount of the annuity) attained at the valuation date by the prospective annuitants ; and

THE THIRD SCHEDULE—*continued*.

- (b) the amount per annum of office premiums payable and of the corresponding net premiums, grouped according to the number of years' payments remaining to be made ;
- (5.) Statements in relation to sinking fund policies, being immediate annuity policies, showing in quinquennial groups the total amount of those annuities, grouped according to the number of years from the valuation date to the date the annuities cease to be payable ;
- (6.) Statements showing in quinquennial groups the amount per annum of continuous disability benefits payable at the valuation date in respect of disability of more than one year's duration, grouped according to ages attained ; and
- (7.) Statements showing the total amount of continuous disability benefit paid and premiums waived in each of the five years immediately preceding the valuation date.

THE FOURTH SCHEDULE.

RULES FOR CALCULATION OF VALUE OF LIABILITIES ON THE MINIMUM BASIS.

Section 49.
S. Africa,
2nd Schedule.

In the calculation on the Minimum Basis of the value of the aggregate liabilities of a statutory fund in respect of its policies, the following rules shall apply :—

(1.) The rates of mortality used shall be rates assumed according to the following tables or to such other tables as are prescribed :—

- (a) in respect of annuity policies for terms dependent on human life, including deferred annuity policies, the ultimate tables for female and male lives respectively, based on the experience of Annuitants for the years 1900 to 1920, and published on behalf of The Institute of Actuaries and The Faculty of Actuaries in Scotland under the short title of *a (f)* and *a (m)* tables ;
- (b) in respect of ordinary policies which are life policies other than annuity policies, the ultimate table based on the experience of insured lives for the years 1924 to 1929, and published on behalf of that Institute and that Faculty under the short title of *A 1924-29 Table* ; and
- (c) in respect of industrial policies which are life policies other than annuity policies, the Australian Life Table 1932-34 (Males), known as the *Am⁵⁵* Table of Mortality.

(2.) The rate of interest used shall be an assumed rate of Four per centum per annum if the date of valuation is on or before the 31st December, 1955 and Three and one-half per centum per annum if the date of valuation is after that date.

(3.) The liability in respect of a policy shall be the difference between the capitalized values as at the valuation date of—

- (a) the reversion in the sum insured, including any reversionary bonuses declared in respect of the policy and still attaching to the policy at the valuation date ; and
- (b) the future adjusted net premiums, less any reduction of those premiums which may have been granted as a bonus, or obtained by the giving of any valuable consideration,

according to the contingencies upon which they are respectively payable.

(4.) For the purposes of the last preceding rule—

"adjusted net premiums" means the net premium for the policy increased by—

- (a) the difference between the net premium and the net premium that would apply (according to the rate of interest and rates of mortality assumed and the age of the person whose life is insured at the date one year after the date of the issue of the policy) if—
- (i) the policy had been issued one year after the actual date of its issue ; and
 - (ii) in cases where the premiums are payable for a limited period, the premiums were payable for a period one year less than that limited period ; or

- (b) an amount which, if payable according to the same contingencies as the net premium is payable, would have a capitalized value as at the date the policy was issued of Three per centum of the sum insured by the policy,

whichever is the less ;

THE FOURTH SCHEDULE—continued.

"net premium" means such premium, exclusive of any addition for bonuses, office expenses and other charges, as (according to the rate of interest and rates of mortality assumed and the age, at the date of the issue of the policy, of the person whose life is insured) is sufficient to provide for the risk incurred by the company in issuing the policy.

(5.) No policy shall be treated as an asset.

(6.) Whenever for the purpose of calculating the liability in respect of policies it is necessary to have regard to the ages of persons whose lives are insured or to any periods of time connected with those policies, the ages and periods to be adopted for that purpose shall be—

(a) exact ages and periods; or

(b) such ages and periods as will produce a liability which in the aggregate is reasonably approximate to the liability that would be produced if exact ages and periods were adopted.

Section 87.

THE FIFTH SCHEDULE.

Memorandum of Transfer.

| Date of Transfer. | Signature of Transferor. | Witness. | Transferee. | | | Signature of Transferee. | Witness. | Date of Registration of Transfer by Company | Signature of Principal Officer of Company or person authorized by him. |
|-------------------|--------------------------|----------|---------------|----------|-------------|--------------------------|----------|---|--|
| | | | Name in full. | Address. | Occupation. | | | | |
| | | | | | | | | | |

Sections 90,
98, 101.

THE SIXTH SCHEDULE.

PART I.

Rules for ascertaining the amount of a Paid-up policy in certain cases for the purposes of Division 4 of Part IV. of this Act.

1. In respect of any policy (other than a policy for the whole term of life where the premiums are payable throughout life), the amount of the paid-up policy, exclusive of bonus additions, shall be—

(a) for policies on which three years' premiums have been paid—70 per centum;

(b) for policies on which four years' premiums have been paid—80 per centum;

and

(c) for policies on which premiums have been paid for five years and upwards—90 per centum

of the sum which bears to the original sum insured the same proportion as the number of complete months' premiums which have been paid on the policy bears to the number of months' premiums originally payable.

2. In respect of any policy for the whole term of life (where the premiums are payable throughout life), the amount of the paid-up policy, exclusive of bonus additions, shall be a sum bearing the same proportion to 80 per centum (or, where the paid-up policy will not participate in future profits, 90 per centum) of the value of the policy as the sum of One pound bears to the present value (at the attained age of the person whose life is insured) of the reversion in the sum of One pound according to the contingency upon which the sum insured under the original policy was payable.

3.—(1.) For the purposes of the last preceding rule, the value of the policy shall be the difference between the present values (at the attained age of the person whose life is insured) of—

(a) the reversion in the sum insured according to the contingency upon which it is payable; and

(b) the future net premiums.

THE SIXTH SCHEDULE—*continued*.

(2.) For the purposes of the last preceding sub-rule, "net premium" means such premium, exclusive of any addition for bonuses, office expenses and other charges, as (according to the rate of interest and rates of mortality assumed and the age of the person whose life is insured at his birthday next following the date one year after the date of the issue of the policy) is sufficient to provide for the risk incurred by the company in issuing the policy.

4.—(1.) For the purposes of this Part, the calculations shall be made as at the day immediately preceding that on which the first premium which has not been paid falls, or fell, due.

(2.) For the purposes of this rule, any premium which has not been paid in cash and which is deemed to be a debt owing to the company shall be deemed to have been paid.

5. For the purposes of rules 2 and 3 of these Rules—

- (a) interest shall be assumed at the rate of Four pounds per centum per annum ;
- (b) the rates of mortality shall be assumed according to the Australian Life Tables 1932–34 (Males), known as the $A_{M^{33}}$ Table of Mortality, or to such other tables as are prescribed ; and
- (c) the attained age of the person whose life is insured shall be obtained by adding to the age attained by him at his birthday next after the date of the issue of the policy, the duration of the policy in completed years and months as at the day at which the calculation is made.

6. There shall be added to the amount (exclusive of bonus additions) of any paid-up policy calculated in accordance with rule 1 or rule 2 of these Rules, the amount of all reversionary bonuses declared upon (and still attaching to) the original policy and there shall be deducted from the amount so ascertained—

- (a) in the case of an ordinary policy—a sum equal to all the reversionary bonuses which have been declared upon the original policy in respect of the period—
 - (i) between the date of the issue of the original policy and a date three years subsequent to the date of that issue ; or
 - (ii) between the date of the issue of the original policy and the date of the paid-up policy, whichever is the shorter ; and
- (b) in the case of an industrial policy—a sum equal to all the reversionary bonuses which have been declared upon the original policy in respect of the period—
 - (i) between the date of the issue of the original policy and a date five years subsequent to the date of that issue ; or
 - (ii) between the date of the issue of the original policy and the date of the paid-up policy, whichever is the shorter,

and the amount remaining shall be the total amount of the paid-up policy.

PART II.

Rules for ascertaining the surrender value of a policy in certain cases for the purposes of Division 4 of Part IV. of this Act.

1. The surrender value of a policy at any date shall be the present value (according to the contingency upon which the policy is payable) of the amount of the paid-up policy which would be granted as at that date, determined according to the Rules set out in Part I. of this Schedule, or the amount payable at death if death were to occur at the date as at which the surrender value is calculated, whichever is the less.

2. For the purposes of the last preceding rule—

- (a) interest shall be assumed at the rate of Five pounds per centum per annum or at such other rate as is prescribed ; and
- (b) in the case of a policy, issued for a term other than the whole term of life, the remaining term at the date as at which the surrender value of the policy is calculated shall be obtained by deducting from the original term of the policy the duration of the policy in completed years and months at that date,

and, in addition, in the case of a life policy—

- (c) the rates of mortality shall be assumed according to the Australian Life Tables 1932–34 (Males), known as the $A_{M^{33}}$ Table of Mortality, or to such other tables as are prescribed ; and
- (d) the present value of the paid-up policy shall be ascertained at an age which shall be obtained by adding to the age attained by the person whose life is insured at his birthday next after the date of the issue of the policy, the duration of the policy in completed years and months at the date as at which the surrender value of the policy is calculated.

Sections 100,
111, 112.

THE SEVENTH SCHEDULE.

| Amount payable in case of death of child between ages— | | | | | | £ |
|--|----|----|----|----|----|----|
| Birth and one year | .. | .. | .. | .. | .. | 5 |
| One year and two years | .. | .. | .. | .. | .. | 6 |
| Two years and three years | .. | .. | .. | .. | .. | 7 |
| Three years and four years | .. | .. | .. | .. | .. | 8 |
| Four years and five years | .. | .. | .. | .. | .. | 10 |
| Five years and six years | .. | .. | .. | .. | .. | 20 |
| Six years and seven years | .. | .. | .. | .. | .. | 30 |
| Seven years and eight years | .. | .. | .. | .. | .. | 40 |
| Eight years and nine years | .. | .. | .. | .. | .. | 50 |
| Nine years and ten years | .. | .. | .. | .. | .. | 60 |
